



STAFF REPORT ACTION REQUIRED

TTC Pension Fund Society and TTC Sick Benefit Association Bylaw Amendments

Date:	May 18, 2017
To:	TTC Board
From:	Chief Executive Officer

Summary

Pursuant to the TTC Pension Fund Society (PFS) Bylaw 3.09, the TTC Board sanction is required in order for the Bylaw amendments to be effective. Membership approval of these amendments will be requested at the Annual General Meeting (AGM) of the TTC PFS to be held on Saturday, June 17, 2017.

Recommendations

It is recommended that the TTC Board Approve:

1. The TTC PFS Bylaw amendments, attached to this report as Appendix A.
2. The TTC Sick Benefit Association Bylaw Amendments, attached to this report as Appendix B

Financial Summary

There are no financial implications resulting from the adoption of this report as the Bylaw amendments do not change the existing TTC PFS contribution rate of 9.25% up to the Yearly Maximum Pensionable Earnings (YMPE) and 10.85% above YMPE. Employees contribute to the PFS pension plan based on their earnings and the above noted contribution rates. Employers match the employees' contribution amounts.

Accessibility/Equity Matters

This report has no accessibility or equity issues.

Decision History

Each year, the PFS Actuary prepares an actuarial valuation and detailed analyses of the TTC Pension Fund Society's funded status which is used by the PFS Board of Directors to determine the affordability of granting base-year period updates and ad-hoc pensioner increases. The granting of these benefits are used to determine pension amount paid to TTC retirees.

After consideration of long term pension benefit affordability based on current contribution rates, on May 10, 2017, the PFS Board of Directors approved a one year base period update (to move the base year from December 31, 2015 to December 31, 2016) and a 1.35% pensioner increase, which is subject to limits under the Canadian Income Tax Act.

These plan changes are effected by the Bylaw amendments, which were approved by the PFS Board of Directors on May 10, 2017. However, in accordance with PFS Bylaw 3.09 any Bylaw amendments require sanctioning by the TTC Board and approval by the Regular Members at the PFS AGM to be held on June 17, 2017. Administration of these benefit changes will commence after all required approvals are received.

TTC Sick Benefit Association (SBA)

TTC Sick Benefit Association (SBA) Under the Sick Benefit Association, By-law No. 1, Section 4 (1) establishes a Board of eight Directors, four appointed by the TTC Board and four appointed by Local 113 of the Amalgamated Transit Union (ATU).

Issue Background

The PFS was established through collective bargaining and incorporated on January 3, 1940 to provide retirement benefits for Toronto's transit employees. The PFS pension plan is administered by a Board, consisting of five Directors appointed by the Toronto Transit Commission (TTC) and 5 Directors who are ex officio members of the ATU executive.

The PFS is a defined benefit, multi-employer pension plan. It covers substantially all employees of the TTC and ATU (the employers) who have completed six months of continuous service. Contributions are made into the plan by members and matched dollar for dollar by their employer. The plan is registered with the Financial Services Commission of Ontario and is subject to regulation under the Ontario Pension Benefits Act and the Income Tax Act (registration number 0317586).

Effective January 1, 2011 pursuant to the Memorandum of Agreement between the TTC and the ATU Local 113, the PFS was established as a Jointly Sponsored Pension Plan (JSPP), as defined by the Ontario Pension Benefits Act. Other Ontario JSPPs include: Ontario Teachers' Pension Plan, OMERS, Healthcare of Ontario Pension Plan, Ontario Public Service Employees' Union Pension Plan (OP Trust) and Colleges of Applied Arts and Technology Pension Plan.

As at December 31, 2016, the PFS had approximately 14,000 active members and 8,000 pensioners and net assets of \$6.1 billion. The PFS plan design supports equal cost and risk sharing between employees and employers.

The PFS plan does not provide automatic annual updates to the best four-year base period used in determining pension benefits, and does not guarantee automatic increases to pensions in payment. Instead, benefit changes are approved only when, and to the degree that, they are deemed actuarially affordable.

Each year the PFS Actuary prepares detailed analyses of the plan's funded status which guides the Directors in their decisions regarding indexing of pensions in payment, providing updates to the base period and other plan improvements. This model has allowed the plan to contain costs during unfavourable market conditions by foregoing base period updates and indexing, as was the case during the period between 2008 and 2010.

On May 10, 2017 the PFS Board of Directors approved the Bylaw amendments, attached to this report as Appendix A, to effect Plan improvements. These amendments will not change the current employer/employee contribution rates, which have been in effect since 2011, and it is worth noting that the PFS contribution rates are among the lowest of other Ontario JSPPs.

Contributions under the existing rates are sufficient to meet the going concern funding requirements as defined under the Ontario Pension Benefits Act and the Canadian Income Tax Act. After taking into account this year's plan improvements, the funded status of the plan on a going concern basis will remain at levels comparable to the prior two years at approximately 97%. As confirmed by the plan actuary, Mercer (Canada) Limited, a compliant actuarial valuation as at January 1, 2017, will be filed with Regulators within the prescribed deadlines.

On May 10, 2017 the TTC Sick Benefit Association approved Bylaw amendments, attached to this report. The amendment is administrative in nature and sets a protocol for appeals for a member that has been denied Sick Benefits.

Contact TTC Pension Fund Society

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Attachments

Appendix A – TTC Pension Fund Society Bylaw Amendments
Appendix B – TTC Sick Benefit Association Bylaw Amendments

Appendix A:

YEAR	UPDATE TO BASE PERIOD	PENSIONER INCREASE	YMPE	CONTRIBUTIONS	CHANGE(S)
2017	Formula update - base up to 2016	1.35%	\$55,300	9.25%/10.85%	Survivor benefit date to 2016; contributions unchanged

APPENDIX A: PFS BYLAW AMENDMENTS

5.05 PURCHASE OF INTERRUPTION IN SERVICE

- (1) Notwithstanding Bylaw 5.02(4), a Member who has an Interruption in Service may elect to purchase this period of Credited Service by contributing to the Society an amount equal to the sum of:
 - (a) what the Member would have been required to contribute under Bylaw 7.01; and,
 - (b) except in the case of family medical leave under Bylaw 5.02(5)(c), what the employer would have been required to contribute under Bylaw 7.01.
- (2) For purposes of determining the amount of contributions payable under Bylaw 5.05(1), the wages or salary that the Member would have earned during the Interruption in Service will be calculated based on the Member's normal hours of work and rate of pay at the time the leave commenced.
- (3) The Member will be given 30 days from the end of the Interruption in Service to elect to purchase the Interruption in Service as Credited Service.
- (4) The purchase of the Interruption in Service as Credited Service must be made by a single lump-sum payment within 90 days of the Member's election under this Bylaw.
- (5) Notwithstanding anything to the contrary in Bylaws 2.01(16) or 5.05 above, the Board in its discretion may authorize a Member who has an Interruption in Service to make the contributions required in (1) above on a periodic basis during all or a portion of the Interruption in Service based on the Member's normal hours of work and rate of pay at the time the leave commenced.
- (6) The Member's contributions shall not exceed the amount that is reasonably necessary to fund the purchased Credited Service.
- (7) The normal hours of work and rate of pay at the time the leave commenced for purposes of (2) and (5) above shall be those in effect:
 - (a) for the position held by the Member with the employer granting the leave of absence for which the purchase of Credited Service is being made;
 - (b) at the start of the Interruption in Service for which the purchase of Credited Service is being made.

6.02 PENSIONABLE EARNINGS

(1) Average Base Period Earnings

Effective January 1, 2017 for Members retiring on or after January 1, 2017 pursuant to Bylaw 8 and for Regular Members whose death occurs on or after January 1, 2017 for purposes of Bylaw 11, and effective May 10, 2017, for Members terminating on or after May 10, 2017, for the purposes of calculating the amount of Regular Member's pension for Credited Service accrued to December 31, 2016, Average Base Period Earnings shall be the greater of:

- (a) the average of the highest consecutive four calendar year's Pensionable Earnings prior to 2017 and for this purpose two calendar years will be considered consecutive even if they include a temporary break in service, and
- (b) the average of the highest four calendar year's Pensionable Earnings after December 31, 1985 and prior to 2017.

A Member's Base Period shall mean the four years used for computing his or her Average Base Period Earnings. For a Member who does not have four calendar years of Pensionable Earnings prior to 2017, the Member's Base Period shall be his or her total number of calendar years, including fractional years, of Pensionable Earnings prior to 2017.

The YMPE used in the calculation of pension entitlements for the Base Period pursuant to Bylaw 9.01 and 9.04 shall be the YMPE under the Canada Pension Plan for each of the corresponding calendar years used in determining the Member's Average Base Period Earnings, or if the Member's Pensionable Earnings are less than the YMPE in a corresponding calendar year, the Member's Pensionable Earnings in that year.

9.01 NORMAL OR POSTPONED RETIREMENT PENSION

(1) For a Regular Member who retires pursuant to Bylaw 8.01 or 8.02 on or after January 1, 2017 and for a Regular Member whose death occurs on or after January 1, 2017 for purposes of Bylaw 11, the annual amount of pension shall be determined as the sum of:

- (a) 1.6% of the Member's Average Base Period Earnings Below YMPE plus 2% of the Average Base Period Earnings Above YMPE,

multiplied by

the number of calendar years in the Member's Base Period divided by the number of years of Credited Service in the Member's Base Period,

multiplied by

the years of Credited Service accrued to December 31, 2016; plus
(b) 1.6% of Pensionable Earnings Below the YMPE plus 2% of Pensionable Earnings above the YMPE for the period of Credited Service after December 31, 2016; plus

(c) 0.4% of the Member's Average Base Period Earnings Below YMPE multiplied by the number of calendar years of Credited Service before 1987 during which the Member:

- (i) was at least age 65 for the entire year; and,
- (ii) did not contribute any amount to the Canada Pension Plan during the calendar year.

(2) The total amount of pension payable to any Member under this Subsection shall not be less than the total amount of accrued pension payable to such Member in respect of years of service up to December 31, 2016, determined in accordance with the Bylaws of the Society in effect as at December 31, 2016.

(3) Notwithstanding Bylaw 9.01(1), for each calendar year in which a Member is sick or injured and is credited with Pensionable Earnings pursuant to Bylaw 6.02 but not Contributory Earnings, the level of YMPE for purposes of Bylaw 9.01(1) shall be based on the YMPE in the year such sickness or injury was incurred or, if later, the year in which the Member's Pensionable Earnings ceased to be adjusted for general increases that are granted to all other employees in the Member's job class.

(4) The annual pension of a Member who retires in accordance with Bylaw 8.01(2) and who:

(a) has Credited Service and Continuous Service which are each less than 30 years, and

(b) has age plus Continuous Service which equal less than 80 years shall be multiplied by the early retirement factor applicable to the Member as of his or her pension commencement date shown in the Table of Early Retirement Factors adopted by the Board, and shall be further reduced if necessary so that the total reduction is at least that required under Bylaw 9.02(2).

13.02 AD HOC ADJUSTMENTS

(1) Notwithstanding Bylaw 13.01, and subject to Bylaw 16.13 and Bylaw 13.02(2) and (3), pensions in the course of payment to Associate Members may be increased in accordance with this

Bylaw 13.02. Increases approved by the Board shall be set out in Bylaw 13.02(4) and shall specify the effective date, the pensions to which the increase is applicable and the amount of the increase.

(2) An increase under Bylaw 13.02(1) that applies to a pension which first becomes payable in the year prior to the effective date of the increase shall be the full increase multiplied by the ratio of the number of days for which the pension was payable to the total number of days in the corresponding calendar year.

(3) Increases under Bylaw 13.02(1) shall be applied equally to pensions in the normal form or optional forms available to Members under Bylaw 10.

(4) Effective January 1, 2011, pensions in the course of payment shall be increased by 2.0%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.

(5) Effective January 1, 2012, pensions in the course of payment shall be increased by 1.0%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.

(6) Effective January 1, 2013, pensions in the course of payment shall be increased by 2.0%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.

(7) Effective January 1, 2014, pensions in the course of payment shall be increased by 2.0%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.

(8) Effective January 1, 2015, pensions in the course of payment shall be increased by 2.0%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.

(9) Effective January 1, 2016, pensions in the course of payment shall be increased by 1.28%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.

(10) Effective January 1, 2017, pensions in the course of payment shall be increased by 1.35%. The pensions to which the increase is applicable shall be determined in the same manner as provided under Bylaw 13.01.

13.01 – ADJUSTMENTS

- (5) In no event shall the percentage of a pension increase provided under Bylaw 13.01(4), exceed the percentage increase in the Average Consumer Price Index for Canada (as published by Statistics Canada) for the twelve month period ending in the [September](#) prior to the increase.

BYLAW NUMBER 2

DEFINITIONS

2.01 – Where Used in Any Bylaws of the Society:

(35) “Survivor Benefit Date” shall mean January 1, 2017.

(34) “Spouse” shall mean either:

- (a) a person to whom a Member is married, provided that the Member is not living separate and apart from that person;
- (b) a person with whom the Member is living together in a conjugal relationship:
 - (i) continuously for a period of not less than three years, or
 - (ii) in a relationship of some permanence, if the Member and his or her Spouse are the parents of a child [as set out in section 4 of the *Children’s Law Reform Act*](#).

at the time a determination of Spouse is required.

APPENDIX B: TTC SBA AMENDMENTS

Current By-Law

Section 15 – PAYMENT OF CLAIMS AND APPEALS

(1) All applications for payment of benefits provided by the by-laws of the Association shall be made by the Members on the proper forms of the Association and forwarded to the Secretary.

(2) All applications to the Association for payment of benefits shall be made within 30 calendar days of the date when the event giving rise to the claim first occurred. Failure to file an application within the required time shall not be a bar to payment by the Association, if in the opinion of the Board, the delay was beyond the control of the Member.

Subject to By-Law 4, Section 1 (1) where the Workplace Safety and Insurance Board does not render a decision within 30 calendar days from the date of an application with respect to payment of an occupational injury or an award for compensation, the Member may make an application for payment of benefits from the Association in the form of advances.

Effective April 15, 2005

(3) Where a Member desires payment of the amount of any benefit or benefits to some person other than the Member, the Member must provide the Association with written authority to make such payment or payments.

(4) Where a certificate of disability is required by the Association, such certificate shall be signed by the attending physician and shall be forwarded by the Member to the Secretary. In the case of application for sick benefits, such will be paid automatically every two weeks, during the period that the Member's physician estimates disability, provided disability continues and until it is apparent that a further medical certificate is required to prove continuing disability.

(5) No payment of any benefit provided for under the By-laws of the Association will be made where the event giving rise to the claim for such benefit occurred prior to the effective date of the By-Law under which such claim is made.

(6) Notwithstanding anything to the contrary in the By-laws of the Association, the Commission may elect to pay benefits and/or claims directly to members in which case the Association shall not be responsible for payments to Members and the Commission shall not be responsible to contribute to the Fund.

New By-Law

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- (5) No payment of any benefit provided for under the By-laws of the Association will be made where the event giving rise to the claim for such benefit occurred prior to the effective date of the By-Law under which such claim is made.
- (6) Notwithstanding anything to the contrary in the By-laws of the Association, the Commission may elect to pay benefits and/or claims directly to members in which case the Association shall not be responsible for payments to Members and the Commission shall not be responsible to contribute to the Fund.
- (7) Where a Member is denied Sick Benefits and receives written communication from the Administrative Staff outlining the Sick Benefit Association By-law infraction or practice, the Member shall have 30 calendar days from the date of the written communication to object/ appeal the Administrative adjudication decision by submitting the written appeal to the Secretary of the Sick Benefit Association within the 30 calendar day period. When the 30 day period falls on a weekend or holiday, the date will be extended to the next weekday or the next day that is not a holiday.**

Effective January 1, 2017