



Text File

Introduced: 1/24/2012

Bill No: 2012-0024, Version: 2

Committee: Committee on Finance and Law

Status: Passed Finally

Ordinance supplementing the Pittsburgh Code at Title One: Administrative, Article IX: Boards, Commissions and Authorities by adding Chapter 176A, Other Post Employment Benefit Trust Fund.

WHEREAS, pursuant to Governmental Accounting Standards Board Statement No. 43 ("GASB 43") and No. 45 ("GASB 45"), a non-federal governmental plan and employer must take steps to define and disclose the post-employment benefits, other than pension benefits, provided for eligible retirees and their eligible spouses, registered domestic partners, and dependents entitled to health coverage, and to actuarially determine its liability for such benefits; and

WHEREAS, a non-federal government plan or employer may reduce or eliminate its net OPEB obligation, as defined in GASB 43 and GASB 45, by making contributions to an irrevocable trust in relation to such anticipated benefits; and

WHEREAS, the City of Pittsburgh ("City") provides medical and life insurance benefits for certain retirees; and

Be it resolved by the Council of the City of Pittsburgh as follows:

Section 1. The Pittsburgh Code, Title One Administrative, Article IX Boards Commissions and Authorities, is hereby supplemented by adding Chapter 176A, Other Post Employment Benefit Trust Fund, as follows:

CHAPTER 176A OTHER POST EMPLOYMENT BENEFIT TRUST FUND

§ 176A.01 - BOARD OF TRUSTEES

§ 176A.02 - PURPOSE 176A.03 - COMPOSITION

§ 176A.04 - DUTIES AND RESPONSIBILITIES

§ 176A.05 - RESOURCES

§ 176A.06 - MONITORING AND REPORTING

§ 176A.07 - MEETINGS

§ 176A.08 - ACCOUNTABILITY

§ 176A.09 - CONFLICTS OF INTEREST

**Chapter 176A
Other Post Employment Benefit Trust Fund**

§ 176A.01 Board of Trustees

There is hereby established a Board of Trustees to be known as the Board of Trustees of the Other Post Employment Benefit (OPEB) Trust Fund to establish a trust fund to be known as the Other Post Employment Benefit (OPEB) Trust Fund and to invest and otherwise manage the assets of the Fund in accordance with the requirements of this ordinance.

§ 176A.02 Purpose

The OPEB Trust is an entity separate from the City for the exclusive benefit of the beneficiaries and not of the City. Ownership of OPEB Trust assets shall be held by the Trustees at all times and, except as provided in the OPEB Trust agreement with respect to distribution of assets upon OPEB Trust termination, the OPEB Trust assets shall not be considered funds or assets of the City for any purpose.

§ 176A.03 Composition

The Board of Trustees of the OPEB Trust Fund shall consist of ~~three (3)~~ **five (5)** members, the Director of Finance, the Director of the Department of Personnel and Civil Service Commission, ~~and the City Solicitor, the City Controller, and the City Council President.~~ The Finance Director shall serve as Chair and the Director of the Department of Personnel and Civil Service Commission shall serve as Vice Chair. In the event of a vacancy in the office of Chair, the Vice chair shall assume the office of Chair until the vacancy is filled

Trustees shall serve without compensation.

§ 176A.04 Duties and Responsibilities

The Trustees will have the following duties and responsibilities:

- A. The principal of the OPEB Trust, together with any earning thereon, shall be held by Trustees separate and apart from any assets of the City. All OPEB Trust assets and all income thereon are irrevocably dedicated to, and shall be used for the exclusive purpose of, making payments of benefits to or for the benefit of beneficiaries and for paying expenses of administering the OPEB Trust. At no time will any OPEB Trust assets be used for, or diverted to, any other purposes.
- B. Investments
 - 1. The Trustees shall oversee a regular selection process for service providers to the OPEB Trust including the Investment Advisor, custodian, and legal counsel, as deemed necessary.
 - 2. The Trustees will oversee the activities of the OPEB Trust Investment Advisor ensuring that investments are made:
 - a. solely in the interest of, and for the exclusive purposes of providing for funding of benefits for participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the OPEB Trust;
 - b. with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of

an enterprise of a like character and with like aims; and

c. by diversifying the investments of the OPEB Trust so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.

3. The Trustees will establish a written statement of investment policy. At least annually, the Trustees will evaluate the appropriateness of the policy and, based on such evaluation, either confirm the terms of the policy as then in effect, or amend the investment policy as appropriate. The investment policy will achieve the following:

a. document investment objectives, performance expectations and investment guidelines for assets under the OPEB trust;

b. establish an appropriate investment strategy for managing all assets under the OPEB Trust, including an investment time horizon, risk tolerance ranges and asset allocation to provide sufficient diversification and overall return over the long-term time horizon of the OPEB Trust;

c. establish investment guidelines to control overall risk and liquidity;

d. establish periodic performance reporting requirements that will effectively monitor investment results and ensure that the investment policy is being followed; and

e. comply with all fiduciary, prudence, due diligence and legal requirements for the investment of assets under the OPEB Trust.

C. The Trustees shall determine the amount of benefits payable and shall have exclusive authority and responsibility to determine the amount of such benefits to be paid out of the assets of the Trust and the amount which shall be paid to each beneficiary and/or to any insurer or other provider of benefits. The Trustees are authorized to disburse amounts in respect of benefits from the Trust (i) to one or more Benefit Administrator for subsequent distribution to or for the benefit of beneficiaries, (ii) to or for the benefit of beneficiaries, or (iii) to the City for reimbursement of documented benefits paid from City assets.

D. The Trustees will take all other actions deemed prudent in its fiduciary capacity as a fiduciary and in the furtherance of the duties and responsibilities delegated under this Chapter. In addition, the Trustees may perform any other activities consistent with this Chapter and governing law, as the Trustees deem necessary or appropriate.

176A.05 Resources

To the extent reasonable and appropriate

A. Expenses are reimbursable in accordance with City policy and state law

- B. The Trustees will have access to City resources, including but not limited to internal advisors within the City, to assist the Trustees in carrying out their fiduciary duties and responsibilities to the Trust;
- C. the Trustees may engage any service providers to assist in the performance of their duties and responsibilities, including but not limited to consultants, legal counsel or other providers; and
- D. the Trustees may utilize funds under the OPEB Trust to pay reasonable expenses of the OPEB Trust, including but not limited to compensation of any service provider to the OPEB Trust appointed by Trustees or the City, unless such expenses are paid directly by the City.

§ 176A.06 Monitoring and Reporting

At least annually, the Trustees will do the following:

- A. monitor compliance with the investment policy for the OPEB Trust;
- B. review and assess the performance of any service providers appointed by the Trustees or the City to perform services related to the OPEB Trust; and
- C. deliver a report to the City Council and City Controller setting out the results of the Trustees' evaluation of the two preceding items.

§ 176A.07 Meetings

A. Regular Meetings

Regular meetings of the Trustees shall be held semi-annually.

B. Special Meetings

Special meetings of the Trustees may be called periodically, as needed, to address special topics.

C. Quorum

~~Two~~ Three members of the Trustees constitute a quorum. A vote of a majority of those voting members present shall be required for action. Action may be taken by motion or resolution.

D. Agenda

Agendas shall be distributed to trustees at least one-week in advance of the scheduled meetings. Trustees may request an item to be included on the agenda by contacting the Chair.

E. Minutes

The Finance Director shall cause to be recorded in the minutes the time and place of each meeting of the Trustees, the names of Trustees present, all official acts of the Trustees, the votes given by Trustees except when the action is unanimous, and when requested by a Trustee's dissent or approval with his or her reasons, and shall cause the minutes to be written forthwith and presented for approval at the next regular meeting. The approved minutes shall form part of the permanent records of the Trustees.

F. **Committees**

The Chair may appoint committees, comprised of Trustees and non-members, as may be deemed necessary to carry out the business of the Trustees.

G. **Execution of Documents**

Any documents required to be executed on behalf of the Trustees may be executed by the Chair and witnessed by the Vice Chair.

§ 176A.08 Accountability

A. **Annual Reports**

The Trustees shall submit an annual report (fiscal year) of performance to the City Council within ninety (90) days after the end of the fiscal year. An audit of the financial statements of the Trust will be conducted by an independent certified public accountant.

B. **Review of Financial Information**

The Trustees shall periodically receive reports from the Trustee and Investment Advisor, and shall review all key financial information to ensure that resources are used and actions taken in compliance with the Trust Agreement, and the approved Investment Policy Statement. The Trustees shall review all audits and similar information to ensure compliance with financial control practices and accounting rules.

C. **Education**

Trustees are encouraged to take at least one up to date educational course annually on investment strategies or other education programs that are relevant to their duties as fiduciaries for the OPEB Trust.

§ 176A.09 Conflicts of Interest

A trustee shall not engage in any employment, activity or enterprise for compensation which is inconsistent, incompatible, in conflict with or inimical to his or her fiduciary duties, functions or responsibilities to the OPEB Trust. Trustees shall not perform any work, service or counsel for compensation outside of his or her OPEB Trust responsibilities where any part of his or her efforts will be subject to approval by the Trustees.