

DEPARTMENT OF CITY CLERK

CITY HALL

DECEMBER 18, 1986

The Retirement Board of the Employees' Retirement System meets this day at 1:30 o'clock P.M. (E.S.T.) in the Council Chamber, City Hall.

PRESENT: Vice-Chairman Bissonnette, Class "A" Representatives McCrink and D'Amico, Class "B" Representatives Power and Landi, Class "A" Representative Retired Mendillo, Class "B" Representative Retired Marnane, Commissioner Quattrocchi and Mr. Corrente -9.

Absent: Mayor Paolino and Councilwoman Brassil -2.

INVESTMENT PROPOSALS - FLEET NATIONAL BANK

Mr. Harold A. Mackinney, Jr., Senior Vice-President of Fleet National Bank is present for discussion and states as in communication dated December 15, 1986:

December 15, 1986

Vice President

The Honorable Joseph R. Paolino
Mayor of the City of Providence
City Hall
Providence, RI 02903

Dear Mayor Paolino:

I am enclosing a program with a recommendation to make some changes in the holdings of the City of Providence's Retirement Plan. Year to date, the performance of the portfolio has been very satisfactory. The stock market has done well, (as has the bond market), and as a result the portfolio has a total return of about 18 percent.

The common stock portion of the account is up better than 20 percent which, if it holds through year end, will mean that in four of the last five years the return for common stocks will exceed 20 percent. In light of all this, I am suggesting in the program a slight reduction in equities. As you will see, the sale of all of the Anadarko and Sears, and a portion of Dow, produces a capital gain of approximately \$550,000. The Anadarko holding is the result of the restructuring of Panhandle Eastern, with Anadarko representing the natural gas reserves of the company, while Panhandle has the distribution system to deliver this natural gas to its customers. The "new" Anadarko holding does not provide very much income, yielding only 1.5% at the moment; whereas Panhandle offers a yield of 7.5 percent. By switching back into the pipeline, we significantly increase the income in the City's retirement portfolio.

By selling the 6,000 shares of Dow and all of the Sears Roebuck, we will again realize capital gains, and I have suggested that we put the proceeds into \$800,000 U.S. Treasury Bills, maturing in January of '87. This will give us a chance to look at the stock market and see whether a correction has taken place. The account is 48.5 percent in common stocks at the moment, so we are fairly fully invested in equities. I think we are still in a bull market for common stocks, but I would not be surprised to see some profit taking through the end of this year.

I will be present at the meeting on Thursday to discuss this suggestion in more detail.

Sincerely,

HAM Jr/mam

Accordingly, on motion of Mr. Mendillo, seconded by Mr. Marnane, it is

VOTED: to authorize the Fleet National Bank as the Investment Agent for the Retirement Board of the Employees' Retirement System for the following sales and purchases as outlined below, same being as submitted and recommended by its Agent in communication dated December 15, 1986:

<u>SELL:</u> <u>Amount</u>	<u>Description</u>	<u>Int. or</u> <u>Div'd</u>	<u>COST</u>	<u>Now</u> <u>Held</u>	<u>Price</u>	<u>Approx.</u> <u>Value</u>	<u>Income</u>
39,000	Amadardo Petroleum	.30	387,055	(39M)	18½	721,500	11,700
6,000	Dow Chemical	2.00	172,327	(36M)	60	360,000	12,008
6,700	Sears Roebuck	1.76	232,972	(6.7M)	41	274,700	11,792
						\$1,256,200	\$35,492

Capital Gain = \$550,000

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BUY:		Int. or		Now		Approx.	
Amount	Description	Div.	Maturity	Held	Price	Value	Income
21,000	Panhandle Eastern	2.00		(39)	27	567,000	42,000
800,000	U.S. Treasury Bills		1/22/87	(0)	5.60B	800,000	44,800
						<u>\$1,367,000</u>	<u>\$86,800</u>

Mr. Mackinney is excused at this time.

INVESTMENT PROPOSALS - NEW ENGLAND TRUST COMPANY

Mr. Ernest R. Famiglietti, President of New England Trust Company is present this day for discussion and states as in communication dated December 15, 1986:

December 15, 1986

The Honorable Joseph R. Paolino, Jr.
Office of the Mayor
City Hall
Providence, RI 02903

Dear Mayor Paolino:


The United States economy continues to grow at a moderate pace. With the current expansion now some 57 months in duration, one might expect that either a boom or a bust would be lurking on the horizon, but such does not seem to be the case, at least in the near term future.

The merchandise trade deficit has shown some improvement in the past two months, but it remains a continuing source of worry as does the federal budget deficit. The return of control of the Senate to the Democrats is likely to ignite pressures to legislate protectionist trade legislation, a trend which would not enhance economic prospects for the United States economy over the long pull. In addition, the consumer has borrowed to the hilt, and is likely to go even further into debt with the new home equity laws being pushed by the banking industry as a result of changes in the tax law.

In short, there is much to worry about, but no immediate reason to panic, as inflation remains subdued and the employment situation is showing some improvement. In the long run, the nation needs to consume less and save more, but paying the price for our excesses may yet be further down the road.

I have enclosed a program for discussion at Thursday's meeting.

Sincerely,



Ernest R. Famiglietti
President

ERF/mjn

Accordingly, on motion of Mr. Power, seconded by Mr. Mendillo, it is

VOTED: that the New England Trust Company as the Investment Agent for the Retirement Board of the Employees' Retirement System for the following sales and purchases as outlined below, same being as submitted and recommended by its Agent in communication dated December 15, 1986:

SELL		Int. or		Now		Approx.	
Amount	Description	Div.	Maturity	Held	Price	Value	Income
3,000,000	U.S. Treasury Notes	10%	12/31/86			\$3,000,000	

BUY		Int. or		Now		Approx.	
Amount	Description	Div.	Maturity	Held	Price	Value	Inc.
2,000	AMP				37.00	\$74,000.00	
1,000	Citicorp				54.00	\$54,000.00	
2,000	First Virginia				30.00	\$60,000.00	
1,000	FPL Group, Inc.				32.00	\$32,000.00	
2,000	Pepsico				27.00	\$54,000.00	
1,000	Texas Utilities				32.00	\$32,000.00	
						<u>\$306,000.00</u>	

Mr. Famiglietti is excused at this time.

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CITY TREASURER'S REPORT.

The City Treasurer's Report is presented, showing the amount to the credit of the Employee's Retirement System of the City of Providence at the close of business on December 18, 1986 is as follows:

December 18, 1986

C/P Employees Retirement System
City Hall
Providence, Rhode Island 02903

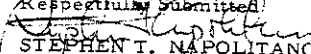
Gentlemen:

This is to certify that the amount of credit to the C/P Employees Retirement System as of December 18, 1986 is as follows.

Cash available as of (12/18, 1986)	\$139,000.00	
Repurchase agreement outstanding	1,625,000.00	
Account Receivable FYE 1986 unaudited	4,270,353.60	
Loans Receivable as of (12/18/86)	<u>6,749,089.32</u>	\$12,783,442.92

<u>New England Trust Co.</u>		
Cash equivalent @ M. V.	\$6,949,647.00	
Government & Agencies	22,124,778.00	
Corporate obligations @ M. V.	1,794,000.00	
Total Common Stock @ M. V.	13,021,600.00	
Principal Cash	<u>(447,849.34)</u>	cr. \$43,442,175.66

<u>FLEET National Bank</u>		
Short term investments @ M. V.	\$1,205,915.66	
Gov Securites & Bonds @ M. V.	53,828,208.81	
Corporate obligations @M.V.	6,156,671.58	
Notes and mortgage	606,349.69	
Total Common Stock @ M. V.	57,287,240.63	
Miscellaneous	10.00	
Cash	<u>970,579.78</u>	<u>\$120,054,976.15</u>
Grand Total		<u>\$176,280,594.73</u>

Respectfully Submitted

 STEPHEN T. NAPOLITANO
 CITY TREASURER



Accordingly, on motion of Mr. Corrente, seconded by Mr. Mendillo, it is:
 VOTED: that the City Treasurer's Report is Approved as Submitted.

ACTUARIAL BILL - OCTOBER, 1986

A Bill from the Actuary is presented for the month of October, 1986, in the amount of \$1,841.00:

"Employees' Retirement System of the
City of Providence
City Hall
Providence, R.I. 02903

Calculation of Retirement Allowances during October, 1986:

14 cases @ \$48.00	\$ 672.00
# 25746 23287 26069	
17353 23287 (add'l.) 26069 (add'l.)	
24442 26743 23433	
20750 18854 23433 (add'l.)	
(add'l.) 20750 18854(revised)	
Preliminary work on valuation as of June 30, 1986.....	\$483.00
Preparation of information concerning the Retirement Act., submitted October 2	\$428.00
Miscellaneous correspondence and consulting services.....	\$258.00
	<u>\$1,481.00</u>

On motion of Mr. Corrente, seconded by Mr. D'Amico, it is voted
 that the Bill from the Actuary in the amount of \$1,481.00 for the Month of
 October, 1986, is Approved for Payment.

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LOANS APPROVED

Mr. Corrente states that the Total of All Loans is \$275,735.00.

On motion of Mr. Corrente, seconded by Mr. D'Amico, it is Voted that All Loans be Approved.

REQUESTS FOR OPTION IV ALLOWANCE

GLORIA P. COVINSKY - REQUEST FOR OPTION IV ALLOWANCE.

Mr. Corrente presents the following communication from Gloria P. Covinsky, dated November 12, 1986:

"I, Gloria Covinsky, request a lump sum payment as offered in Option IV. This money is needed for the purpose of purchasing a Condominium.

In taking Option IV, I acknowledge that I will be receiving a reduced monthly pension."

Mr. Corrente states that the request is for a lump sum payment of \$12,913.11 with a reduced pension of \$396.33 a month, as opposed to \$469.63 Maximum Retirement Allowance.

JOHNNY COOKE - REQUEST FOR OPTION IV ALLOWANCE.

Mr. Corrente presents the following communication from Johnny Cooke, dated November 24, 1986:

"I hereby request the Option Four (4) Retirement Option and request a lump sum payment of \$33,678.89 for financial reasons."

Mr. Corrente states that the request is for a lump sum payment of \$33,678.89 with a reduced pension of \$1,032.32 a month, as opposed to \$1,197.45 Maximum Retirement Allowance.

Accordingly, on motion of Mr. Marnane, seconded by Mr. Landi, it is Voted that the requests of Gloria P. Covinsky and Johnny Cooke for Option IV Allowances be Approved.

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RETIREMENTS

MAXIMUM ALLOWANCES

ROLAND LABONTE - APPLICATION FOR SERVICE RETIREMENT - MAXIMUM

The Application of Roland Labonte is presented. Mr. Labonte was employed as a Mechanic in the Water Supply Board. He is forty-nine years of age with a service record of twenty-five years, purchasing eleven months, working for the City twenty-four years and one month.

This Application is in proper form with Allowance as recommended by the Actuary as follows:

Roland Labonte Mechanic/W.S.B. Group II
Allowance \$864.72 a month, effective October 24, 1986.

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SALVATORE LOMBARDI - APPLICATION FOR SERVICE RETIREMENT - MAXIMUM

The Application of Salvatore Lombardi is presented. Mr. Lombardi was employed as a Custodian at the School Department. He is fifty-six years of age with a service record of seventeen years and eleven months, purchasing one year and four months, working for the City sixteen years and seven months.

This Application is in proper form with Allowance as recommended by the Actuary as follows:

Salvatore Lombardi Custodian/School Dept. Group II
Allowance \$627.26 a month, effective September 1, 1986

OPTION I.

DOMENIC ANTONELLI - APPLICATION FOR SERVICE RETIREMENT - OPTION I.

The Application of Domenic Antonelli is presented. Mr. Antonelli was employed as a Custodian in the School Department. He is sixty-five years of age with a service record of seventeen years and two months, purchasing three years and two months, working for the City thirteen years and two months.

This Application is in proper form with Allowance as recommended by the Actuary as follows:

Domenic Antonelli Custodian/W.S.B. Option II
Allowance \$617.20 a month, effective October 30, 1986.

OPTION II.

DANIEL MURPHY - APPLICATION FOR SERVICE RETIREMENT - OPTION II.

The Application of Daniel Murphy is presented. Mr. Murphy was employed as a Rehabilitation Specialist in the Department of Building Inspection. He is fifty-two years of age with a service record of twenty-nine years and one month, purchasing two years and five months, working for the City twenty-six years and eight months.

This Application is in proper form with Allowance as recommended by the Actuary as follows:

Daniel C. Murphy Rehab. Spec./Bldg. Ins. Group I
Allowance \$1,004.33 a month, effective July 18, 1986.

OPTION III.

JOSEPH VARELLA - APPLICATION FOR SERVICE RETIREMENT - OPTION III.

The Application of Joseph Varella is presented. Mr. Varella was employed as a Custodian in the School Department. He is sixty-five years of age with a service record of sixteen years and eleven months, working for the City the same length of time.

This Application is in proper form with Allowance as recommended by the Actuary as follows:

Joseph Varella Custodian/School Dept. Group II
Allowance \$531.93 a month, effective September 26, 1986.

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OPTION FOUR

JOHN DICKINSON - APPLICATION FOR SERVICE RETIREMENT - OPTION FOUR

The Application of John Dickinson is presented. Mr. Dickinson was employed as a Firefighter in the Fire Department. He is fifty-five years of age with a service record of thirty-three years and nine months, purchasing one year and nine months, working for the City thirty-two years.

This Application is in proper form with Allowance as recommended by the Actuary as follows:

John Dickinson Firefighter/Fire Dept. Group 4
Allowance \$1,251.39 a month, effective July 3, 1986.

ERNEST JOHNSON - APPLICATION FOR SERVICE RETIREMENT - OPTION FOUR

The Application of Ernest Johnson is presented. Mr. Johnson was employed as a Supervisor of Foods and Services at the School Department. He is sixty-one years of age with a service record of thirteen years and eleven months, working for the City the same length of time.

This Application is in proper form with Allowance as recommended by the Actuary as follows:

Ernest Johnson Supervisor/School Dept. Group 2
Allowance \$939.46 a month, effective August 27, 1986.

JAMES KILDUFF - APPLICATION FOR SERVICE RETIREMENT - OPTION FOUR

The Application of James Kilduff is presented. Mr. Kilduff was employed as a Laborer in the Department of Public Works. He is fifty-six years of age with a service record of eighteen years and two months, purchasing three years and nine months, working for the City sixteen years and two months.

This Application is in proper form with Allowance as recommended by the Actuary as follows:

James Kilduff Laborer/Pub. Wks. Group 1
Allowance \$573.68 a month, effective July 18, 1986.

ISABELLE GLAVIN - APPLICATION FOR SERVICE RETIREMENT - OPTION FOUR

The Application of Isabelle Glavin is presented. Ms. Glavin was employed as a Crossing Guard in the School Department. She is seventy years of age with a service record of fourteen years and two months, working for the City the same length of time.

This Application is in proper form with Allowance as recommended by the Actuary as follows:

Isabelle Glavin Crossing Guard/School Dept. Group 1
Allowance \$325.99 a month, effective June 23, 1986.

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JOSEPH HULL - APPLICATION FOR SERVICE RETIREMENT - OPTION FOUR

The Application of Joseph Hull is presented. Mr. Hull was employed as a Battalion Chief in the Fire Department. He is fifty-nine years of age with a service record thirty-two years and six months, purchasing three years and six months, working for the City twenty-nine years, seven months and nine days.

This Application is in proper form with Allowance as recommended by the Actuary as follows:

Joseph Hull Battalion Chief/Fire Dept. Group 4
Allowance \$2,040.00 a month, effective July 10, 1986.

On motion of Mr. Marnane, seconded by Mr. Mendillo, it is voted that the foregoing Applications for Service Retirements be Granted.

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At this time Mr. Corrente states that regarding Option Four, he would like to bring up an administrative procedure that he thinks should be changed.

He states that in the past they would come in and ask the Board to approve an Option Four request with a letter. At the same time they used to come in with the actuary's amount for what this person would be getting for a pension.

He states that what has happened is that they have approved the Option Four, the Clerk records the approval of Option IV with the amount of money the individual will be getting. What can happen, subsequent to the Board's approval of Option IV, is that the retiree can come in two or three weeks later and say that he does not want Option Four any longer, he may choose another Option. They still have that right to change their Option before they finally sign or take their benefits

So, what happens is, they feel that they have a right to make that change. So, now they make the change. Then it comes before the Board to approve the new Option the retiree chose. The Board can forget or they just can't take the chance that the Option Four will be removed from the minutes because they are no longer taking Option Four.

Mr. Corrente states that what he was thinking of is letting the Board approve Option Four with no numbers. Then when they come in with the final approval of Option Four they submit the numbers - but then it is final and it gets into the records of the City Clerk. He thinks that this procedure is a lot better than the other one.

Mr. Landi questions whether or not this will speed it up a little.

Mr. Corrente states that it will speed it up. He states that if they sent is to New York to get an estimate, by the time they get the estimates, sometimes they miss a month. Then they go into the second month. In the second month, they come in with the letter and then it is approved. Then they go into the third month.

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Mr. Corrente states that then the retiree changes her mind and then they have to go back again and they have other problems. He thinks it is a better procedure.

Mr. Landi questions as to whether or not Mr. Corrente cannot just do this.

Mr. Corrente states that the Clerk's Office called me last week and informed him that he did not give the figures for two members. He states that he told them that it really didn't matter and just to record that these two people were approved and when they give it final approval, he will give them the numbers.

The Clerk's Office told him that they had not been doing it that way. He told them that he thought the procedure should be changed. So, this is why he is here.

Mr. Bissonnette questions as to how often this kind of thing happens where someone applies for Option Four, the computation is done, the figure goes in there and then the figure that they actually get is different from that.

Mr. Corrente states that regardless of how many times it happens, it still a quirk in the administrative process, for this reason. They can go three months before they get the person off because the letter comes in maybe the day after the Board meeting, then they have to wait another month, then they have to wait another month to go to New York.

He states that when a person requests Option Four, he writes a letter. The letter itself comes to the Board and the Board approves it. When the person actually signs the dotted line and gets the amount of money they have coming to them, the figures will come in with the final approval of Option Four.

Mr. Bissonnette questions the Assistant Clerk as to whether or not this would be a problem for her.

The Assistant Clerk states that it is not a problem for her but she knows that City Clerk Rose M. Mendonca did wish to be present when this matter was brought up as she was the one who informed Mr. Corrente that a change in administrative procedure of this type should be made by vote of the Board. That was her only problem with this.

On motion of Mr. Corrente, seconded by Mr. Power, it is:

VOTED: that the Board may approve Requests for Option Four Allowances with only the letter from the person requesting Option Four and subsequent to that approval, final approval will be made and the figures will be submitted to the Board at that time.

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MISCELLANEOUS

NEW BUSINESS

A. EVELYN RUSSO - LETTER - REQUESTING AN OPTION CHANGE

Mr. Corrente submits the following communication from Evelyn A. Russo dated December 5, 1986:

"Mr. Frank Corrente
Officer in Charge
City of Providence Retirement Board
City Hall
Providence, R.I.

I am formally requesting a change in my retirement benefits from Option 3 to Option 4. Due to need at this time, I am requesting this change. I had chosen Option 3 and now wish to take Option 4 in which the remainder of my money will be given to me now. My monthly benefits will actually be less than I am currently receiving.

I would also like to point out that at the time of my retirement I was not completely informed as to what options were available. In fact, a person in the retirement office was not cooperative at all.

I would appreciate an immediate approval of my request."

Mr. Corrente states that Mrs. Russo did not understand the Options she was taking vs. what is available. He states that he had spoken to the Actuary relative to this and the Actuary states that this really is no problem. It is more of an administrative problem that it is an Actuarial problem. They simply have to refigure everything and find out what the balance of her annuity is.

Mr. Corrente states that he would be in favor of this change under this condition, under that the fact that this woman did write and say that she felt she was not treated properly. On that condition alone, he would vote to make the change.

He states that there has to be some proof that a person was not properly informed before he would agree to this. He is going to go on record saying that he agrees with Mrs. Russo.

Accordingly, on motion of Mr. D'Amico, seconded by Mr. Mendillo, it is:

VOTED: that the Request of Evelyn Russo to change from Option 3 Retirement to Option 4 Retirement be Granted.

Mr. Quattrocchi requests to be recorded as "Not Voting".

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B. ACTIVE MEMBERS RECEIVING RETIREMENT BENEFITS (ELECTED OFFICIALS)

Mr. Corrente states that since Mrs. Spratt has left the Retirement Office, all these so-called decisions that are coming up that are not ordinary things that are done every week come to his attention.

He states that former Councilman Lynch has been put on the payroll. He states that Mr. Farone from his office spoke to him and informed him that former Councilman Lynch is going on the payroll but he is collecting a pension.

He states that Mr. Farone pointed out to him that there are others that are also doing this.

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Mr. Corrente states that Mrs. Spratt used to do everything. Even though he was there, she was there thirty years and knew everything that was going on.

He states that the State Law reads as follows under "Elected Officials": "Said retirement allowance shall not be paid to any person otherwise entitled thereto while he is receiving compensation from the City or any of its agencies, commissions or bureaus, except to the extent that said retirement allowance may exceed such compensation."

Mr. Corrente states that apparently they don't exceed it, so that is not a problem. However, when he went to check, he found that in January of 1983, Philip Almagno, who received a pension, started working for the City. Vincent Cirelli, Anthony Sciarretta, Charles Pisaturo, and Edward Xavier all collect pensions, Elected Official pensions, who are on the payroll of the City of Providence.

He states that he does not know why Mrs. Spratt allowed this to happen. She came to the Board with it. He states that when Mrs. Spratt gave him things he figured she had been there thirty years and she knew what she was doing. He states that he wants it to go on record that whenever the administration had a question on retirement, they did not call Frank Corrente, they called Dolores Spratt. So, Mrs. Spratt was considered the expert and the administrator of the Retirement System.

He states that they are sitting with six elected officials who are collecting a pension who are on the City payroll. This all came about because the problem came to his desk on Robert Lynch. He was trying to make the decision that Robert Lynch was not entitled to the pension and that they would have to stop him from getting the pension because he came to work.

Mr. Quattrocchi questions as to where Mr. Lynch was going to work.

Mr. Corrente states that Mr. Lynch was going to be the Secretary of the Tax Review Board.

Mr. Power questions as to whether these people are paying into the pension fund again.

Mr. Corrente states that they are paying into the regular pension. The Elective pension is based on the number of years a person has served.

He states that as it stands right now, if they had decided that these people should not be collecting the pension, there is no way they can go back and say that they owe money now. He states that they made the decision. The problem now is do they stop them and not allow it any further.

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Mr. Bissonnette states that he thinks that they should turn this matter over to the City Solicitor.

Mr. Landi moves that this matter be submitted to the City Solicitor for an opinion.

Mr. Corrente states that he already did that. He states that he wrote a letter to the Assistant City Solicitor John D'Amico asking for his opinion.

Mr. D'Amico states that he is working on this and would like copies of the transcripts.

Mr. Corrente questions as to what transcripts Mr. D'Amico is referring to.

Mr. D'Amico states that in Mr. Corrente's letter he referred to transcripts that he had looked over.

Mr. Corrente states that the transcripts are only going to tell Mr. D'Amico that Dolores Spratt allowed them to get the pension, brought it in front of the Board and the Board just approved it. They thought that Mrs. Spratt was doing the right thing. Mrs. Spratt was taking those matters before this Board when she never should have. Now the Board approved it, but that is beside the point. Now the Board has got to be told that it is wrong and that the blame cannot be placed on the Board. They felt that they were doing what Mrs. Spratt thought was the proper thing to do.

Mr. Bissonnette questions if 1983 was the first time that this happened.

Mr. Corrente states that it happened first in 1982. He states that there is a trend there. All with the exception of Anthony Sciarretta, all the other people were put on in the Paolino Administration.

Mr. Marnane states that they had a retired fireman who became a member of the City Council. As a member of the City Council, he waived his rights to his pension. His name is William Moise. He gave up his rights to his pension while he was a member of the City Council.

Mr. Quattrocchi states that unfortunately he thinks the Board has no choice but to withhold any further payments until this is resolved.

Mr. D'Amico states that some of the research has already been done and the City Solicitor and he have begun to discuss it.

Mr. Quattrocchi states that in the meantime somebody should hold those checks. They should be held in escrow by the City Solicitor.

Mr. Corrente states that fortunately, dollarwise it is not that serious.

Mr. Quattrocchi states that as an add-on to Mr. Landi's motion to refer this matter to the City Solicitor, he requests that further pension checks to these six individuals be held by the City Solicitor pending further review by the Board with his legal opinion.

This motion is seconded by Mr. Marnane,

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C. BILL SUBMITTED BY ATTORNEY MANDELL - WALTER BRUCKSHAW v. JOSEPH R. PAOLINO, ET. AL.

Mr. Corrente states that Mr. Quattrocchi had this Board pass a Resolution that all bills should come before the Board before they are forwarded to the City Solicitor.

He states that the bill is all itemized and is in the amount of \$5,527.49.

On motion of Mr. Mendillo, seconded by Mr. D'Amico, it is

VOTED: that the bill in the amount of \$5,527.49 from Attorney Mark Mendell re: Walter Bruckshaw v. Joseph R. Paolino, Jr., et al, be approved for payment.

Mr. Quattrocchi questions if this payment is coming out of investment income or out of the budget for the Board.

Mr. Corrente states that they had decided that the payments would come out of income.

Mr. Quattrocchi states that in that case, he wishes to be recorded as "Not Voting". He is not sure that they can do that.

Mr. Corrente states that it is a Retirement Board related problem.

Mr. Quattrocchi states that the City is responsible for the operating expenses of the Board. He questions as a fiduciary whether he has the ability to invade investment income.

Mr. Corrente states that if he recalls, the Board already voted on that and it was unanimously approved by the Board that the payment of the bills will come out of retirement income.

Mr. Bissonnette states that they ought to check that point. This bill can be tabled until next month.

Mr. Corrente suggests submitting the bill to the Law Department to be paid, since it is only a question of how it is being paid.

Mr. Quattrocchi states that investment income is trustee funds.

Mr. Bissonnette suggests that the Board should approve payment, but send the bill to the Legal Department and let the City Solicitor determine whether it should come out of the budget of the Retirement Board as a Budget expense or out of interest income from the fund.

Mr. Quattrocchi states that if it is coming out of investment income he will not vote in favor of approving this bill for payment.

Mr. Bissonnette states that the Board should just table this matter until next month.

Mr. Corrente states that that holds up the bill for one month for the attorney, and he does not think that that is fair.

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Mr. Mendillo withdraws/^{his} motion to approve Mr. Mandell's bill for payment and Mr. D'Amico withdraws his second to that motion.

On motion of Mr. Landi, seconded by Mr. D'Amico, it is:

VOTED: That Attorney Mark Mandell's bill for services rendered relative to Walter Bruckshaw v. Joseph R. Paolino, Jr., et al. in the amount of \$5,527.49 be Tabled until next month.

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OLD BUSINESS

A. DISCUSSION AND APPROVAL OF BUY-BACK FOR PRIOR CITY EMPLOYMENT

Mr. Corrente states that at the last meeting he and the Law Department had come up with a method of allowing City employees who have worked prior to the City to buy back time similar to the last twenty-five years that people were buying.

He states that their method was presented at last month's meeting and it was tabled because the members wanted to take it home and study it.

He questions the members as/^{to} what they would like to do.

Mr. Landi states that they received something from the City Clerk's Office explaining that the way that that was drawn up, Mr. Corrente's suggestion would include all people on part-time Boards also, which he is opposed to and always has been. If that is the way that it is going to go, he is opposed to it.

Mr. Corrente questions if he would approve it,^{it} if/were to exclude all board members?

Mr. Quattrocchi states that personally, he does not think that they need a policy. He thinks that the Board should have the right to take it up on a case by case basis. He does not see why they should delegate that responsibility to somebody else. That is their responsibility.

Mr. Corrente states that they did not exercise their responsibility when he did come up with a method. He states that he got a beef, he tried to explain it and then they turn around say something else.

Mr. Quattrocchi states that because he disagrees with Mr. Corrente, that does not mean he is giving him a "beef". He states that he has been on this Board for nine years and for nine years they have taken these things up on a case by case basis.

Mr. Corrente states that he and Mrs. Spratt brought in lists of names and the Board approved them. He states that it has been done that way for the past twenty-five years.

He states that when he took over he decided to come in on an individual basis. He tried to change it because he thought it should be done on an individual basis.

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Discussion ensues and Mr. Quattrocchi states that he wants to take this up on a case by case basis.

Mr. Landi suggests that they have that recommendation drawn up with the elimination of the Boards.

Mr. Quattrocchi states that with all due respect, Mr. Corrente has just informed the Board that six former public elected officials are collecting pensions which they may or may not have been entitled to collect. And now Mr. Corrente wants us to establish another policy so some Clerk in the Retirement Office can process claims without the knowledge of the Board and a year from now or three years from now someone can come forward and inform them they are doing something wrong.

He states that he does not believe in delegating responsibility to a Clerk that is a fiduciary responsibility of the Board members of which they are legally on the hook for.

Mr. Corrente questions Mr. Quattrocchi if he expects the everyday administrator of the Retirement Board not to have certain guidelines to go by so that when an individual walks in they can at least use some guidelines to say "yes" or "no".

Mr. Bissonnette states that if Mrs. Spratt was just applying her own guidelines, which is what she was doing, she was just using her own judgement and her own decisions, wasn't she?

Mr. Corrente states that she was, erroneously. He states that if the members had read his guidelines, they would know that it said that anyone who comes to work from this point on, does not have the privilege of using those guidelines.

Mr. Bissonnette states that people should have a guideline to go by.

Mr. Quattrocchi states that if they had any guidelines, it would only be assuming that the Clerk cannot authorize or give anything to the applicant without the Board's approval.

Following further discussion and on motion of Mr. Quattrocchi, seconded by Mr. Marnane, it is :

VOTED: that the matter of buy-back for prior City Employment be tabled until next month's Retirement Board meeting.

Mr. Corrente wishes to be recorded as Voting "No".

B. RICHARD CONNELLY - DISCUSSION - DR. MARIOREZZI

Mr. Corrente states that the Board had recommended that Mr. Connelly be sent to the Lahey Clinic for a medical evaluation.

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He states that the Lahey Clinic is not accepting these cases anymore. However, they have found that the New England Baptist Clinic does evaluations of this kind. He is asking the Board to approve sending Mr. Connelly to the New England Baptist Clinic for his evaluation.

On motion of Mr. Corrente, seconded by Mr. D'Amico, it is:

VOTED: that Mr. Richard Connelly be sent to the New England Baptist Clinic for a medical evaluation.

Mr. Landi states that under "Old Business" there is something missing. It has been brought up for the last several months, and it is the mandatory retirement at age sixty for Class "B" Members. He would like the following memorandum included in the Retirement Board record:

MEMORANDUM

John A. Gannon
President

Alfred K. Whitehead
Secretary-Treasurer

TO: IAFF EXECUTIVE BOARD, U.S. STATE ASSOCIATION PRESIDENTS, AND
U.S. LOCAL PRESIDENTS

FROM: HAROLD A. SCHAITBERGER, DIRECTOR, DEPARTMENT OF GOVERNMENTAL AFFAIRS
AND PUBLIC RELATIONS

RE: ANALYSIS OF AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1986

DATE: DECEMBER 5, 1986

The purpose of this memorandum is to provide a more detailed explanation of the Age Discrimination in Employment Amendments of 1986 (P.L. 99-592) adopted by Congress on October 17, 1986.

LEGISLATIVE HISTORY:

On September 23, 1986 the House of Representatives took up consideration of H.R. 4154, a bill sponsored by Congressman Claude Pepper to lift the age cap applicable to the Age Discrimination in Employment Act. Under current law, individuals are protected from age discrimination, including mandatory hiring and retirement rules, only until the age of 70. Congressman Pepper's (D-FL) bill removes that cap of age 70 and provides protection for individuals at any age, even beyond age 70.

When the bill reached the floor of the House, Congressman Austin Murphy (D-PA) offered an amendment to permit state and local governments to establish mandatory hiring and retirement age rules for public safety personnel. The language of the amendment was taken from a pending bill (H.R. 1435) offered originally by Representatives Bill Hughes and Matthew Rinaldo of New Jersey. The IAFF has supported the goal of removal of fire fighters from coverage under the ADEA since the Supreme Court's decision in EEOC v. Wyoming in 1983.*

After the House passage on September 23, 1986, the bill was sent to the Senate for action. By this time, the date of adjournment neared and it became

* In the EEOC v. Wyoming case, the Supreme Court ruled that the provisions of the ADEA act were applicable to state and local governments. In response to this ruling, many public employers abandoned mandatory retirement plans, on the belief that they were unlawful under the ADEA. The IAFF believes this result has been detrimental to the safety of fire fighters and communities and undermines pension systems and for these reasons has sought legislation permitting mandatory hiring and retirement rules for public safety employees.

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clear there was no chance for enactment of the legislation without a "unanimous consent" agreement in the Senate. A "unanimous consent" agreement is a method of expediting approval of a bill by first obtaining an agreement from all Senators that there will be no opposition to the bill.

Unfortunately, it became politically impossible to obtain a unanimous consent agreement when intense pressure in opposition to the Murphy amendment was brought by various retirement groups including the American Association of Retired Persons. Primarily, the objections raised were broad philosophical objections, focusing chiefly on the notion that ability, determined on an individual basis by testing, should be the sole deciding factor in employment. There was concern in the Senate that age rules sometimes disqualify competent workers from continuing their employment. The chief spokesperson for the opposition in the Senate was Senator Metzenbaum (D-OH) who, in addition to objecting to the House amendment on philosophical grounds, argued that the language of the House amendment was overly vague and provided loopholes for abuse by employers. For example, Senator Metzenbaum raised the concern that the Murphy amendment would allow public employers to establish age rules which would make it difficult or impossible for employees to be employed for a sufficient length of time to vest in a pension plan (e.g. hire employees at 30 and mandatorily retire them at 40).

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As the date of adjournment neared, various groups interested in enactment of this legislation began negotiations for a compromise bill. Senator Wendell Ford (D-KY), a strong advocate of the Murphy amendment, led the push in the Senate for enactment of a final bill. The negotiations were successful and on October 17, 1986, the House and the Senate adopted a compromise bill. Thus, at long last, the IAFF was able to obtain relief from the detrimental effect the EEOC v. Wyoming case has had on the fire service.

SECTION-BY-SECTION ANALYSIS:

- SECTION 1: Establishes the short title of the bill as the "Age Discrimination in Employment Amendments of 1986".
- SECTION 2: Removes maximum age cap of 70 for coverage under the ADEA to provide protection to individuals regardless of age. Also makes various technical amendments.
- SECTION 3: Makes several changes in the Act with respect to employment as a fire fighter or law enforcement officer. Specifically:

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(a)(i)(1) Provides that it is not unlawful for state and local governments to refuse to hire or to discharge an individual because of such individual's age as long as the action is consistent with mandatory hiring or retirement rules in effect in a state or local government on March 3, 1983. In other words, state and local governments may now revert back to hiring and retirement rules in effect in their jurisdiction as of March 3, 1983. (The day after the EEOC v. Wyoming decision). The purpose of the language limiting the permissible hiring and retirement rules to those in effect as of March 3, 1983 is to limit opportunity for employer abuse, by allowing reversion to legitimate age rules and not unreasonable rules designed to evade the purposes of the Act. So, for example, an employer who had in effect prior to March 3, 1983 a rule requiring retirement at age 55 may now revert back to the age 55 retirement rule, but may not now adopt a rule requiring retirement at an earlier age, or any other age.

(a)(i)(2) Provides that mandatory hiring and retirement rules must be part of bona fide hiring and retirement plans and not "a subterfuge to evade the purposes of the Act." This language will guard against employer abuse by not allowing employers to pick and choose employees who will be subject to the mandatory hiring and retirement rules on an individual basis but rather must apply the rules across the board, to all employees.

(b) Provides that the amendments pertaining to police and fire fighter hiring and retirement rules are effective for a seven year period of time, ending December 31, 1993. At the expiration of this seven year effective period, Congress must enact further legislation permitting mandatory age rules.

SECTION 4: Defines the terms "fire fighter" and "law enforcement officer".

SECTION 5: (a) Mandates the EEOC and Department of Labor to jointly conduct a study within four years of enactment to determine the feasibility of physical and mental fitness tests as valid measurements of the ability of fire fighters and law enforcement officers. If such tests are found to be valid measurements of such ability, the study must identify which particular types of tests most effectively measure ability and competence. Finally, the study report must include recommendations on standards for testing.

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(b) Requires the Secretary of Labor and the EEOC to consult with FEMA, the U.S. Fire Administration, representatives of fire fighters, law enforcement officers, their employers and organizations representing older Americans in the conduct of the study.

(c) Requires the EEOC and the Department of Labor to develop guidelines within 5 years of enactment on the administration and use of physical and mental fitness tests to measure the ability and competency of fire fighters and law enforcement personnel.

SECTION 6: Provides special rules for tenured faculty at Universities.

SECTION 7: (a) Provides an effective date for amendments of January 1, 1987 EXCEPT for employees subject to a collective bargaining agreement which expires after January 1, 1987 AND WHICH CONTAINS A PROVISION REGARDING MANDATORY AGE RULES WHICH WOULD BE SUPERSEDED BY THESE AMENDMENTS. In this case, the legislation is effective for those employees and their employers upon the termination of their collective bargaining agreement or January 1, 1990, whichever occurs first.

In other words:

-- The effective date of the amendments for employees not covered by collective bargaining agreements will be January 1, 1987.

-- Furthermore, the effective date for employees who are covered by collective bargaining agreements which are silent on the subject of mandatory hiring and retirement rules, or which contain provisions on mandatory age rules which would not be superseded by the new legislation, will be January 1, 1987.

-- The effective date of the amendments for employees covered by collective bargaining agreements which contain provisions which would be superseded by the new legislation, will be the date upon which the agreement expires or January 1, 1990, whichever occurs first.

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- (b) Provides that these amendments shall not apply with respect to existing lawsuits brought under the ADEA before January 1, 1987. The purpose of this section is to ensure that the amendments do not have any bearing on the outcome of lawsuits brought before the effective date.

For your convenience, I have attached a copy of the final bill and the accompanying statements on the floor of the Senate.

If you require any further information or explanation, please feel free to contact me.

ATE

October 16, 1986

Mr. CHILES, proposes an amendment in the nature of a substitute numbered 3434.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination in Employment Amendments of 1986".

SEC. 2. AMENDMENTS RELATING TO MAXIMUM AGE.

(a) COVERAGE UNDER GROUP HEALTH PLANS.—Subsection (g)(1) of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)), as added by section 116(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "through 69" each place it appears and inserting in lieu thereof "or older".

(b) TECHNICAL AMENDMENT.—Subsection (g) of section 4 of the Age Discrimination in Employment Act of 1967, as added by section 802(b)(2) of the Older Americans Act Amendments of 1984, is amended by striking out "(g)(1)" in inserting in lieu thereof "(h)(1)".

(c) REMOVAL OF MAXIMUM AGE LIMITATION.—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended—

- (1) in subsection (a) by striking out "but less than seventy years of age", and
- (2) in subsection (c)(1) by striking out "but not seventy years of age."

SEC. 3. EMPLOYMENT AS FIREFIGHTER OR LAW ENFORCEMENT OFFICER.

(a) GENERAL RULE.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end thereof the following new subsection:

"(1) It shall not be unlawful for an employer which is a State, a political subdivision of a State, an agency or instrumentality of a State or a political subdivision of a State, or an interstate agency to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken—

"(1) with respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable State or local law on March 3, 1983, and

"(2) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purposes of this Act."

(b) TERMINATION PROVISION.—The amendment made by subsection (a) of this section is repealed December 31, 1993.

SEC. 4. DEFINITIONS.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end thereof the following new subsections:

"(j) The term 'firefighter' means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

"(k) The term 'law enforcement officer' means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of a State, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this subsection, 'detention' includes the duties of employees assigned to guard individuals incarcerated in any penal institution."

AMENDMENT OF AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to consideration of H.R. 4154, dealing with mandatory retirement.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4154) to amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3484

(Purpose: To amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator HEINZ and others in the nature of a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for Mr. HEINZ, Mr. METZENBAUM, Mr. FORD, Mr. BRADLEY, Mr. KENNEDY, Mr. GRASSLEY, Mr. HAWKINS, Mr. COHEN, and

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CONGRESSIONAL RECORD — SENATE

S 16851

C. A STUDY AND PROPOSED GUIDELINES RELATING TO POLICE OFFICERS AND FIREFIGHTERS.

(a) **STUDY.**—Not later than 4 years after the date of enactment of this Act, the Secretary of Labor and the Equal Employment Opportunity Commission, jointly, shall—

(1) conduct a study—
(A) to determine whether physical and mental fitness tests are valid measurements of the ability and competency of police officers and firefighters to perform the requirements of their jobs.

(B) If such tests are found to be valid measurements of such ability and competency, to determine which particular types of tests most effectively measure such ability and competency, and

(C) to develop recommendations with respect to specific standards that such tests, and the administration of such tests should satisfy, and

(2) submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate that includes—

(A) a description of the results of such study, and

(B) a statement of the recommendations developed under paragraph (1)(C).

(b) **CONSULTATION REQUIREMENT.**—The Secretary of Labor and the Equal Employment Opportunity Commission shall, during the conduct of the study required under subsection (a) and prior to the development of recommendations under paragraph (1)(C), consult with the United States Fire Administration, the Federal Emergency Management Agency, organizations representing law enforcement officers, firefighters, and their employers, and organizations representing older Americans.

(c) **PROPOSED GUIDELINES.**—Not later than 5 years after the date of the enactment of this Act, the Equal Employment Opportunity Commission shall propose, in accordance with subchapter II of chapter 5 of title 5 of the United States Code, guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of police officers and firefighters to perform the requirements of their jobs.

SEC. 4. SPECIAL RULE FOR TENURED FACULTY.

(a) **SPECIAL RULE.**—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965)."

(b) **TERMINATION PROVISION.**—The amendment made by subsection (a) of this section is repealed December 31, 1993.

(c) **STUDY REQUIRED.**—The Equal Employment Opportunity Commission shall, not later than 12 months after the date of enactment of this Act, enter into an agreement with the National Academy of Sciences for the conduct of a study to analyze the potential consequences of the elimination of mandatory retirement on institutions of higher education.

(2) The study required by paragraph (1) of this subsection shall be conducted under the general supervision of the National Academy of Sciences by a study panel composed of 9 members. The study panel shall consist of—

(A) 4 members who shall be administrators at institutions of higher education selected by the National Academy of Sciences after consultation with the American Council

of Education, the Association of American Universities, and the National Association of State Universities and Land Grant Colleges;

(B) 4 members who shall be teachers or retired teachers at institutions of higher education (who do not serve in an administrative capacity at such institutions), selected by the National Academy of Sciences after consultation with the American Federation of Teachers, the National Education Association, the American Association of University Professors, and the American Association of Retired Persons; and

(C) one member selected by the National Academy of Sciences.

(3) The results of the study shall be reported, with recommendations, to the President and to the Congress not later than 5 years after the date of enactment of this Act.

(4) The expenses of the study required by this subsection shall be paid from funds available to the Equal Employment Opportunity Commission.

SEC. 7. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) **IN GENERAL.**—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement—

(1) which is in effect on June 30, 1986,

(2) which terminates after January 1, 1987,

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

(4) which contains any provision that would be superseded by such amendments, but for the operation of this section,

such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.

(b) **Effect on Existing Causes of Action.**—The amendments made by sections 3 and 4 of this Act shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 as in effect before January 1, 1987.

THE PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment in the nature of a substitute (No. 3484) was agreed to.

Mr. HEINZ. Mr. President, I rise in support of H.R. 4154, the Age Discrimination in Employment Amendments of 1986. This amendment would prohibit mandatory retirement by removing the age 70 cap in the Age Discrimination in Employment Act (ADEA). This amendment is similar to legislation which I introduced in 1985 and to H.R. 4154, introduced by Congressman CLAUDE PEPPER and unanimously passed by the House of Representatives on September 23, 1986. The importance of removing the age 70 cap is its message to present and future older workers: you are to be employed on the basis of your ability, not on the basis of your birth date.

The problems associated with age discrimination are not new to the Congress. The first ADEA bill, enacted in 1967, stemmed from the Congress' determination that age discrimination, like discrimination based upon race, religion, or sex, is inherently contrary

to the principle of individual merit. The original act was designed to protect workers between the ages of 40 to 65. In 1978, the Age Discrimination in Employment Act was amended to eliminate mandatory retirement for nearly all Federal workers and to increase to 70 the age at which non-Federal workers could be forcibly retired. This bill will abolish that age 70 cap and will reverse a policy that implicitly sanctions arbitrary discrimination against working men and women over the age of 70. While it is a simple change in the law, it will make an enormous difference in the lives of those who will soon face the devastating effects of age discrimination.

There are 1.1 million Americans age 70 and over in our work force. Many of these people want to continue working—sometimes for reasons of self-fulfillment, but more often for reasons of economic necessity. Federal law now deprives these people of the same guarantees of equal opportunity in employment that other citizens enjoy. They are deprived of this protection not on the basis of who they are and what they can do, but solely on the basis of their age.

At a hearing I chaired before the special Committee on Aging in June, I learned of the severe psychological and financial impact of forced retirement on older workers. I heard first hand how this policy, if left to stand, would silence the strings of a concert violinist from Philadelphia, would close the schoolbooks of a dedicated teacher from Connecticut, and were it not for the Older Americans Act, would sentence a productive, willing worker from my hometown of Pittsburgh to years of financial hardship and social isolation.

Age discrimination is unfair and we should rid our society of it without further delay. More than 4 years ago, on April 2, 1982, President Reagan endorsed the abolition of mandatory retirement saying, "when it comes to retirement, the criterion should be fitness for work, not year of birth." And public opinion in this country clearly supports the elimination of mandatory retirement. A recent Harris poll found that by a 9 to 1 margin, the majority of all ages feel that, "nobody should be forced to retire because of age."

In addition to the compelling civil rights arguments for the elimination of forced retirement, there are sound economic arguments for increasing the labor force participation rates among older workers. Age discrimination is not only a threat to the well-being of older individuals, but it also undermines the economic stability of the Nation's retirement income systems and, to a lesser extent, the larger economy as well.

Passage of this legislation will encourage more older workers to remain employed longer and will help to prepare us for the inevitable work force changes that will occur in the future.

Mr. Landi states that he would also like all Retirement Board members to receive a copy of this memorandum as well as the City Solicitor. It gives an explanation of the Act that was passed. The age sixty mandatory retirement is still in effect, as he reads it.

He states that they are still paying people over the age of sixty. They are going to end up with more Disabilities because the men are going past the age of sixty.

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Mr. Landi states that this matter has been brought up every month for the past six months.

Accordingly, on motion of Mr. Landi, seconded by Mrs. McCrink, it is

VOTED: that copies of the foregoing memorandum from Harold A. Schaitberger, Director, Department of Governmental Affairs and Public Relations, dated December 5, 1986 be included in the minutes of the December Retirement Board Meeting and that copies be transmitted to all Board Members and the City Solicitor.

FRANK PRINCIPALE - DISCUSSION - ACCIDENTAL DISABILITY - TABLED FROM LAST MONTH

Mr. Corrente states that at the last meeting Mr. Principale requested Accidental Disability Retirement. Upon reading his reports, the Board members requested that Mr. Corrente call the School Department and find out what the story is.

Mr. Corrente states that he called Mr. Prinipale's Superior, who is Mr. Wilson Williams. Mr. Williams stated that he saw Mr. Prinipale the other day and he looked terrible. Mr. Williams also said that he didn't think that Mr. Prinipale can ever come back to work and it would probably be better if he gets out.

Accordingly, on motion of Mr. Corrente, seconded by Mr. D'Amico, it is:

VOTED: that the Request of Frank Principale for Accidental Disability Retirement be Granted, based on the medical evidence, at an Allowance to be computed by the Actuary.

Messers. Quattrocchi, Landi and Power request to be recorded as "Not Voting".

At this time, Vice-Chairman Bissonnette requests the Board members look at the following memorandum to City Solicitor Edward C. Clifton relative to married members of the Retirement System applying for retirement loans:

DATE: December 9, 1986
TO: City Solicitor Edward C. Clifton
SUBJECT: REQUEST FOR LEGAL OPINION
CONSIDERED BY: Retirement Board of the Employees' Retirement System

DISPOSITION: The members of the Retirement Board request an opinion in writing as to whether or not it is legal for a married member of the Retirement System to apply and receive a loan without the signature of the spouse.

Many years ago, it was the vote of the Retirement Board to allow the members to obtain loans from the retirement system. At that time, the Board voted that if the person requesting a loan was married, the spouse must sign the loan application.

The feeling of the members, at that time, was that it would protect the husband or wife of the person or persons requesting the loan.

The loan application has a place for the signature of the person requesting the loan as well as a place for the spouse of the person, if married. At that time, if a person was in the process of a divorce, they would submit a communication from their attorney attesting to that fact.

Through the years, that practice seems to have been abolished. The members of said board are now requesting an opinion as previously stated.

Robert M. Mendonca
City Clerk

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Mr. Marnane questions if the spouse in this case^{is} the beneficiary? He states that if the spouse is the beneficiary, all well and good, but if the spouse isn't the beneficiary of this pension, he can't see what they have to do with it.

Mr. Corrente states that his question was that the applicaiton itself stipulates the signature of the spouse. Now, if it is not necessary for the spouse to sign, they should get it off the application.

Mr. Power states that that was supposed to have been done a long time ago.

Assistant City Solicitor D'Amico states that they have had a lot of talk on this matter. He states that he has a short answer but he would like the Board to wait for a written opinion.

He states that the short answer is that there seems to be no requirement in the Act to get the spouse to sign. Likewise, there is no prohibition against the Board requiring that if they wanted it as a policy. But it does not appear that they are obligated to have that.

Mr. Corrente states that the application stipulates that the spouse has to sign.

Assistant City Solicitor D'Amico states that the Board has the authority to Continue or change it. In this particular case the Board is not prohibited from having it either way.

Mr. Quattrocchi states that he believes the Supreme Court has stated that wives have the right to their husbands' pensions.

Mr. Power states that that is when the husband is dead.

Assistant City Solicitor D'Amico states that the information he needs to know is, prior to vesting in the pension system, what can you borrow? Fifty percent of what?

Mr. Corrente states that they may borrow fifty percent of what they have contributed.

Assistant City Solicitor D'Amico questions that after twelve years, when a person is vested, you can then borrow fifty percent of what?

Mr. Corrente states that after three years in the system, a member can borrow fifty percent of what they have contributed.

Assistant City Solicitor D'Amico questions if the municipal contributions are ever included in what a person may borrow.

Mr. Corrente states that the municipal contributions are never included.

He states that the applications stipulates that the spouse has to sign,

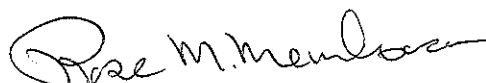
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Now, if the Board says that the spouse doesn't have to sign, that is fine with him. Then they can go further and say that the application should be changed and the place for the spouse's signature be removed.

Mr. Power states that that should have been taken off the application a long time ago.

Mr. Corrente states that if that application ever went to court, they would ask why the space for the spouse's signature was left blank.

ADJOURNMENT: On motion of Mr. Mendillo, seconded by Mr. Landi, it is voted to adjourn at 2:30 o'clock P.M. (E.S.T.) to meet again on THURSDAY, JANUARY 22, 1987 at 1:30 o'clock P.M. (E.S.T.).


CLERK


Assistant Clerk