

PERSONNEL, AUDITS, AND ANIMAL WELFARE and BUDGET AND FINANCE COMMITTEES' REPORT and ORDINANCE FIRST CONSIDERATION relative to amending the Los Angeles Administrative Code (LAAC) to establish the Los Angeles Fire and Police Pensions (LAFPP) Retiree Health Care Fund.

Recommendation for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

PRESENT and ADOPT the accompanying ORDINANCE dated June 8, 2021 to amend Chapter 11.5 of Division 4 of the LAAC to establish the LAFPP Retiree Health Care Fund and to authorize the use of the Health Care Fund to pay for retiree health and welfare programs.

Fiscal Impact Statement: None submitted by the City Attorney. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted.

Summary:

On December 1, 2021, the Personnel, Audits, and Animal Welfare (PAAW) Committee considered an October 8, 2021 City Attorney report and Ordinance relative to amending the LAAC) to establish the LAFPP Retiree Health Care Fund. According to the City Attorney, the Ordinance creates the LAFPP Health Care Fund as an alternative funding mechanism for LAFPP health and welfare benefits in place of the LAFPP Health Care Coverage Account established in Section 4.1150 of the LAAC (the Health Care Coverage Account).

The Ordinance authorizes the City and the Board to enter into a written trust agreement establishing their roles and responsibilities regarding the administration and investment of the LAFPP Health Care Fund. The trust agreement will name the Board as trustee of the LAFPP Health Care Fund. The LAFPP Health Care Fund provides increased flexibility compared to the existing Health Care Coverage Account. Because the LAFPP Health Care Fund is not subject to the subordination requirement that governs the Health Care Coverage Account, it is not at risk of incurring tax liability when the cost of health and welfare benefits surpass the limits that the Health Care Coverage Account requires.

The Health Care Coverage Account was established to comply with Section 401(h) of the Internal Revenue Code (Section 401(h)). Section 401(h) allows a pension plan such as LAFPP to provide health benefits for retirees and their dependents on a tax-free basis when certain requirements are satisfied. One of these requirements is that health benefits—combined with life insurance- provided by a pension plan must be subordinate to the retirement benefits the plan provides. In order to be subordinate, the aggregate amount of contributions for health benefits (along with life insurance contributions) must

be less than 25 percent of all aggregate plan contributions. The subordination requirements of Section 401(h) governing the Health Care Coverage Account are similarly codified in LAAC Section 4.1150(b). While to date aggregate LAFPP health benefits contributions fall under the 25 percent threshold, they are on pace to exceed this limit in the future. In contrast, the LAFPP Health Care Fund would not be subject to the Section 401(h) subordination requirement. Instead, the LAFPP Health Care Fund is intended to qualify for Federal tax exemption under Section 115 of the Internal Revenue Code (Section 115). Section 115 has fewer requirements for tax exemption than Section 401 (h). Section 115 dictates only that “income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof is not federally taxable. Because health benefits paid out of the LAFPP Health Care Fund are not required to be subordinate to the Plan retirement benefits, the LAFPP Health Care Fund would not become taxable if the Plan health benefits contributions surpass the 25 percent threshold.

After consideration and having provided an opportunity for public comment, the PAAW Committee moved to recommend approval of the Ordinance. Subsequently, on December 6, 2021, the Budget and Finance Committee also considered this matter and after consideration and having provided an opportunity for public comment, the Committee moved to concur with the PAAW Committee. This matter is now submitted to Council for its consideration.

Respectfully Submitted,

Personnel, Audits, and Animal Welfare Committee

**COUNCILMEMBER VOTE**

KORETZ: YES  
HARRIS-DAWSON: YES  
BONIN: YES

Budget and Finance Committee

**COUNCILMEMBER VOTE**

KREKORIAN: YES  
BLUMFIELD: YES  
DE LEON: YES  
RODRIGUEZ: YES  
PRICE: YES

ARL  
12/6/21

**-NOT OFFICIAL UNTIL COUNCIL ACTS-**