

## SUBSTITUTE

*Introduced  
by:*

Mayor Pedro E. Segarra

**HEADING  
AND  
PURPOSE**

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE VII, DIVISION 1 OF THE HARTFORD MUNICIPAL CODE DE OTHER POST EMPLOYMENT BENEFITS TRUST FUND

COURT OF COMMON COUNCIL,  
CITY OF HARTFORD

April 27, 2015

Be It Hereby Ordained by the Court of Common Council of the City of Hartford that present Code Sections 2-490 through 2-497 are hereby deleted and replaced with new Sections 2-490 through 2-498 (pages 5 through 10) as follows.

[Sec. 2-490. - Other post-employment benefits trust fund.

(a) *Background.* The governmental accounting standards board (GASB) is an independent, not-for-profit organization formed in 1984 that establishes and improves financial accounting and reporting standards for state and local governments. GASB has recently formally issued GASB Statement No. 45, "Accounting and Financial Reporting by Employers for Post-employment Benefits Other Than Pensions." GASB 45 focuses attention on the costs of such other-than-pension post-employment benefits to state and local employees, being retirees and their qualify dependents. Other post-employment benefits (OPEB) are generally disability, life, and health insurance types of coverage for retired employees.

(b) GASB 45 requires a recommended framework for accounting and reporting the ultimate cost of such post-retirement benefits which are an important part of governmental employee compensation.

(c) Connecticut G.S. §§ 7-403a and 7-450 have been amended, effective July 1, 2006, to recognize municipal responsibility to address the issue of such other post-employment health and life benefits.

(d) GASB 45 requires that the city conduct an actuarial funding study to determine its unfunded accrued actuarial liability (UAAL) for OPEB. The time for complying with this requirement expires not later than December 2006. The city must determine its total projected future liability and can establish an amount called the annual required contribution (ARC) to pay the OPEB liability as it comes due each year and to amortize the UAAL over a period not to exceed thirty (30) years. GASB 45 requires that state and local governments report their OPEB liabilities annually in their financial statements.

(e) The city is also obliged to determine how to address funding OPEB. State law provides for the enactment of an ordinance to establish one (1) or more trusts, or participation in a multiemployer trust, to hold and invest the assets of the other post-employment health and life benefit system for retirees and their qualify dependents.

(f) The city, acting by the mayor, created an OPEB working group consisting of the chief operating officer, the city treasurer, the director of finance, the director of management and budget, the director of human resources, the chief fiscal officer of the board of education and the city's risk manager, which reported on December 6, 2006 to the mayor on its review and findings concerning GASB 45 and OPEB. This article follows that report.

Sec. 2-491. - Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings given herein.

*Actuarial valuation* means a determination by a qualified actuary, using appropriate methods and generally accepted accounting and actuarial principles, of the city's unfunded actuarial accrued liability, the normal cost and the actuarial value of assets and related present values to quantify the funded status of the OPEB plans and to determine the level of contributions required to fund the OPEB obligations over the working lifetimes of employees, in accordance with GASB 45.

*Other post-employment benefits (OPEB)* means benefits for the city's retired employees and their qualify dependents, other than pension benefits, which include medical, dental, vision, life insurance and disability insurance.

*Sinking trust* means a fund set aside for the purpose of periodically redeeming bonds, debentures and preferred stocks. The fund is accumulated from earnings and payments into the fund and may be based on either a fixed percentage of the outstanding debt or a fixed percentage of profits.

Sec. 2-492. - Establishment of the other post-employment benefits trust fund.

(a) There shall be established a trust fund, separate and apart from the general revenues and the pension revenues of the city, known as the other post-employment benefits trust fund (OPEB trust fund).

(b) The OPEB trust fund is hereby established to accumulate, invest and manage funds necessary to meet the costs of providing other post-employment benefits than pension benefits to retirees from employment with the city and/or to their qualify dependents, whether optional or mandatory, in effect now or to be in effect in the future. Any funds expended from the OPEB trust fund shall be utilized for the sole and exclusive purpose of providing other post-employment benefits to retirees and/or their qualify dependents and, to the extent permitted, the administrative costs of the fund.

(c) All contributions paid into the OPEB trust fund and the income thereof, without distinction between principal and income, shall be maintained in banks and or trust companies qualified as public depositories or in such other appropriate depositories or investments as allowed by federal and/or state law or regulation, subject to the oversight of the finance director and the OPEB Committee.

Sec. 2-493. - Administration of the OPEB trust fund.

(a) The OPEB trust fund assets shall be managed by the city treasurer who, pursuant to G.S. § 7-403a, shall be charged with investing the OPEB trust fund assets, and with submitting annually a complete and detailed report of the condition of the OPEB trust fund to the mayor and to council, and who, upon recommendation of the mayor and the finance director, and approval by the council,

shall appropriate and pay from the assets of the OPEB trust fund only other post-employment health and life benefit obligations of the city for the benefit of retirees and/or their qualify dependents.

(b) The OPEB committee, which will be made up of the chief operating officer, the finance director, the human resources director, a health actuary appointed by the mayor and two (2) citizens selected by the mayor with investment/financial experience, with the chief operating officer serving as secretary, shall have the following duties and responsibilities:

(1) To approve and establish the process and amounts of all payments disbursed from and deposited to the OPEB trust fund, including:

a. Medical, dental, prescription drugs and other claims paid under the OPEB plans for non-Medicare and Medicare beneficiaries;

b. Administrative fees related to retiree plans;

c. Other vendor charges such as stop loss premiums related to retiree plans;

d. Fees to third-party vendors and consultants related to the ongoing administration of the OPEB plans; and

e. retiree contributions collected to enroll in OPEB plans for all inactive beneficiaries.

(2) To recommend all funding contributions to the OPEB trust fund specifically actuarial required contributions determined by qualified external actuaries under the GASB provisions.

(3) To cause annual actuarial valuations of the OPEB trust fund and to effect special studies and forecasts as deemed appropriate by the OPEB committee.

(4) To provide oversight and policy direction with regard to the ongoing operations of the OPEB plans and trust, including asset-related decisions.

(5) To review the financial performance of OPEB benefits plans and consider changes in program operations and design as needed for the City of Hartford.

(6) To make recommendations regarding amendments to this article; and

(7) To perform such other duties as are specified or required by law or regulation or as are deemed prudent for the administration of the OPEB trust fund.

(c) The OPEB committee shall have the power to make rules and regulations to carry out its duties in the management of the OPEB trust fund, provided such rules and regulations shall not be in conflict with applicable law and/or the express terms of this article.

(d) The OPEB trust fund shall be subject to an annual actuarial valuation by qualified external actuaries selected by the OPEB committee, with the advice and consent of the OPEB committee. The annual report of the condition of the OPEB trust fund by the city treasurer shall be made part of the annual financial report of the City of Hartford.

Sec. 2-494. - Source and investment of monies in the OPEB trust fund.

(a) In order to fulfill the investment responsibilities related to the OPEB trust fund, the finance director, subject to the approval of the OPEB committee, may retain the services of investment consultants or advisors for the purposes of investment decisions and management.

(b) Upon recommendation of the mayor and approval by the council, funding sources for the OPEB trust fund may include:

(1) Amounts authorized to be transferred from the general fund cash surplus available at the end of any fiscal year;

(2) Any changes or increases in contribution levels of employees or retirees to health costs;

(3) Any applicable state subsidies;

(4) Some portion of the city's annual pay-as-you-go expenditure for health costs;

(5) Amounts raised by an annual tax levy for the benefit of such fund, and for no other purpose, if permitted by state law, provided such tax shall be levied and collected in the same manner and at the same time as the regular annual tax of the city;

(6) Any other revenues identified by the department of management and budget, the finance department, or the mayor or council.

(c) The city treasurer shall have the care and custody of all the assets of the OPEB trust fund and, with the approval and direction of the OPEB committee, subject to any other relevant provisions of this article, shall have the power to invest and to reinvest said assets in securities, real property and other investments permissible by law for the investment of trust funds pursuant to the Connecticut Uniform Prudent Investor Act, G.S. § 45a-541 et seq.;

(d) Any portion of the OPEB trust fund assets not invested in securities may be invested in:

(1) Bonds or obligations of, or guaranteed by, the state or the United States;

(2) Certificates of deposit, commercial paper, savings accounts and bank acceptances;

(3) The obligations of any state of the United States or any political subdivision thereof, provided that at the time of investment, such obligations are rated within the top rating categories of any nationally recognized rating service or of any rating service recognized by the banking commissioner, and applicable to such obligations;

(4) The obligations of any regional school district in this state, of any municipality in this state or any metropolitan district in this state, provided at the time of investment such obligations of such governmental entity are rated within one (1) of the top two (2) rating categories of any nationally recognized rating service or of any rating service recognized by the banking commissioner, and applicable to such obligations;

(5) In any fund in which a trustee may invest pursuant to G.S § 36a-353;

(6) In investment agreements with financial institutions whose long-term obligations are rated within the top two (2) rating categories of any nationally recognized, rating service recognized by the banking commissioner or whose short-term obligations are rated within the top rating category of any nationally recognized rating service or of any rating service recognized by the banking commissioner; or

(7) Investment agreements fully secured by obligations of, or guaranteed by, the United States or agencies or instrumentalities of the United States.

**Sec. 2-495. - Distributions.**

At any time, but not more frequently than weekly, the finance director shall submit a statement or invoice for premiums and/or other allowable related costs or expenses due during such fiscal period for post-employment benefits due retired employees of the city, which statement shall include the amount to be paid from the OPEB trust fund. The city treasurer shall make arrangements to withdraw from the OPEB Trust Fund an amount sufficient to pay such expenditures due.

**Sec. 2-496. - Fund assets not subject to sale, encumbrance, etc.**

No part of the OPEB trust fund assets shall be subject, in any manner, to sale, transfer, alienation, pledge, assignment, attachment, or any other encumbrance, whether voluntary or involuntary, by operation of law or court order. Any attempt to sell, transfer, alienate, pledge, assign or otherwise encumber the assets of the OPEB trust fund shall be void and of no force and effect.

**Sec. 2-497. - Termination of the OPEB trust.**

Although it is the intent of the mayor and the council to continue the OPEB trust fund indefinitely, upon recommendation of the mayor, and approval by council, the fund may be terminated. Nothing in this article shall prevent the elimination of certain OPEB benefits; the lowering of benefit levels; the capping of city provided benefits; or converting plans from defined benefit to defined contribution plans, as appropriate, all in accordance with the provisions of the article and the law. To the extent that there are any assets remaining in the OPEB trust fund, after satisfaction of all benefit obligations to the existing OPEB trust fund beneficiaries, the remaining OPEB trust fund assets shall be applied to provide, either directly or through the purchase of insurance, life, sickness or accident benefits to the active and retired city employees and their qualify dependents for whose benefit the OPEB trust fund was established (collectively, the "members") pursuant to criteria that do not provide disproportionate benefits to officers or highly compensated employees of the city, or alternatively, distributed to the members on the basis of objective and reasonable standards which do not result in either unequal payments to similarly situated members or in disproportionate payments to officers or highly compensated employees of the city. ]

**Sec. 2-490. - Other post-employment benefits trust fund.**

(a) *Background.* The Governmental Accounting Standards Board (GASB) is an independent, not-for-profit organization formed in 1984 that establishes and approves financial accounting and reporting standards for state and local governments. GASB has formally issued GASB Statement No. 45, entitled, "Accounting and Financial Reporting by Employers for Post-employment Benefits Other Than Pensions." GASB Statement 45 focuses attention on the costs and reporting of such other-than-pension post-employment benefits to state and municipal retirees

and their qualified dependents. "Other post-employment benefits" (OPEB) are generally disability, life, and health insurance types of coverage for retired employees.

(b) GASB Statement 45 provides a recommended framework for accounting and reporting the estimated cost of such post-retirement benefits using an accrual methodology.

(c) Connecticut General Statutes §§ 7-403a and 7-450 recognize municipal responsibility to address the issue of such other post-employment health and life benefits, and govern the creation of a trust for the purpose of funding such benefits.

(d) GASB Statement 45 requires that state and city governments conduct actuarial valuation studies to determine their unfunded accrued actuarial liability (UAAL) for OPEB. The City must determine its total projected future liability and calculate an amount called the annual required contribution (ARC) to recognize the OPEB liability as it is incurred each year, which includes an amortization of the UAAL over a period not to exceed thirty (30) years. GASB Statement 45 requires that state and local governments report their OPEB liabilities in their annual financial statements.

(e) The City is also obliged to address the appropriateness of funding OPEB obligations. The cited statutes authorize the City to establish one (1) or more trusts, or participate in a multiemployer trust, to hold and invest assets for the purpose of reserving funds to pay OPEB benefits to retirees and their qualified dependents.

(f) In the event that GASB amends, repeals or supersedes GASB Statement 45, the City's obligation to operate the OPEB Trust Fund under this ordinance shall not be impaired.

#### **Sec. 2-491. - Definitions.**

For purposes of this chapter, the following words and phrases shall have the meanings given herein.

*Actuarial valuation* means a determination by a qualified actuary, using appropriate methods and generally accepted accounting and actuarial principles, of the City's unfunded actuarial accrued liability, the normal cost and the actuarial value of assets and related present values to quantify the funded status of the OPEB plans and to determine the level of contributions required to fund the OPEB obligations over the working lifetimes of employees, in accordance with GASB Statement 45, and any further relevant GASB statements.

*Other post-employment benefits (OPEB)* means benefits for the City's retired employees and their qualified dependents (other than pension benefits) which may include medical, dental, and vision coverage, life insurance and disability insurance, and such other benefits as the City may provide in the future.

*State* means the State of Connecticut.

#### **Sec. 2-492. - Establishment of the other post-employment benefits trust fund.**

(a) There shall be established an irrevocable trust fund, separate and apart from the general revenues and the pension revenues of the City, known as the Other Post-Employment Benefits Trust Fund (OPEB Trust Fund). The OPEB Trust Fund shall be a Section 115 fund within the meaning of the Internal Revenue Code. Within the OPEB Trust Fund, there shall be a single

account established by the OPEB Committee under section 2-493 which shall reflect contributions and benefits for beneficiaries who were hired prior to July 1, 2009.

(b) The OPEB Trust Fund is hereby established to accumulate, invest and manage funds necessary to meet the costs of providing OPEB benefits to individuals who have retired from employment with the City, including the Board of Education, and to their qualified dependents, whether optional or mandatory, in effect now or to be in effect in the future. Any funds expended from the OPEB Trust Fund shall be utilized for the sole and exclusive purpose of providing OPEB benefits to retirees or their qualified dependents and, to the extent permitted, for [to] paying the administrative costs thereof. Administrative costs may include the salaries and fees of the City Treasurer and others involved with management of the fund.

(c) All contributions paid into the OPEB Trust Fund and the income thereon, without distinction between principal and income, shall be maintained in banks and or trust companies qualified as public depositories, or in such other appropriate depositories or investments as allowed by federal, state, or municipal law.

### **Sec. 2-493. - Administration of the OPEB Trust Fund.**

(a) The OPEB Trust Fund assets shall be managed by the City Treasurer who, pursuant to the City Charter and Connecticut General Statutes § 7-403a, shall be charged with the deposit and investment of the OPEB Trust Fund assets, and with submitting annually a complete and detailed report of the condition of the OPEB Trust Fund to be part of the City's Comprehensive Annual Financial Report to the Mayor and the City Council. The OPEB Trust Fund shall only pay OPEB benefit obligations for the benefit of retirees and their qualified dependents (which may include the reimbursements of amounts paid by the City), and expenses related to the OPEB Trust Fund.

(b) There shall be established an OPEB Committee which shall consist of the members of the Pension Commission, including the employee representative, together with the Mayor, the City Treasurer, and the Superintendent of Schools [the Board of Education]. The Mayor may designate that the City's Chief Operating Officer or Director of Finance serve in place of the Mayor, and the Superintendent may designate that the Board of Education's Chief Financial Officer serve in place of the Superintendent. The voting members of the Pension Commission shall be the voting members of the OPEB Committee.[Any nonvoting member of the pension commission shall be a nonvoting member of the OPEB Committee.] The Treasurer shall serve as Secretary to the OPEB Committee. The OPEB Committee shall have the following duties and responsibilities:

(1) To annually review the amounts of all payments to be disbursed from the OPEB Trust Fund, in consultation with the City's contractors, insurers, and actuaries, including:

- a. Medical, dental, prescription drugs and other claims paid under the OPEB plans for non-Medicare and Medicare beneficiaries,
- b. Administrative fees related to retiree plans,
- c. Other vendor charges, such as stop loss premiums, related to retiree plans,
- d. Fees to third-party vendors and consultants related to the ongoing administration of the OPEB plans, and

e. All other administrative expenses of the OPEB Trust Fund.

(2) To review the amount of employee and retiree contributions to the OPEB trust, as required by collective bargaining agreements, ordinances, or other legal requirements.

(3) To cause annual actuarial valuations of the OPEB Trust Fund and its liabilities to be performed and to obtain special studies and forecasts as deemed appropriate by the OPEB Committee.

(4) To determine and recommend the amount of the City's contributions to the OPEB Trust Fund, specifically, the annual required contribution (ARC) determined by qualified external actuaries in accordance with GASB Statement 45, or other actuarially determined contribution.

(5) To establish groups of beneficiaries of the OPEB Trust Fund, determined by dates of hire or dates of retirement, for the purpose of establishing the liability of the fund, and for establishing groups of employees for whom OPEB benefits are to be paid by the City on a pay as you go basis, as distinct from being paid from the OPEB Trust Fund.

(c) The OPEB Committee shall have the power to make internal rules and regulations to carry out its duties in the management of the OPEB Trust Fund, provided such rules and regulations shall not be in conflict with applicable law or the express terms of this Article.

(d) The OPEB Trust Fund shall be subject to an annual actuarial valuation by qualified external actuaries selected by the OPEB Committee.

(e) The OPEB Committee may retain the services of actuaries, insurance professionals, auditors, investment consultants or advisors, and other investment professionals, for the purposes of educating the OPEB Committee, gathering information, or formulating policy, with regard to investment decisions and management and administration of the OPEB Trust Fund. Such services shall be professional services and shall be selected by the OPEB Committee.

(f) To provide oversight and policy direction with regard to the ongoing operations of the OPEB plans and trust, including asset-related decisions.

**Sec. 2-494. – Sources of funding the OPEB Trust Fund.**

(a) The OPEB Committee shall obtain the City's actuarially determined contribution amount [ARC payment] each year and report to the City Council. The City shall fund a portion of the actuarially determined contribution [ARC] payment so determined each year. The portion to be funded shall be determined by the City Council and shall be not less than the pay-as-you-go cost projected for the year. [50% of the actuarially determined amount.]

(b) Upon recommendation of the Mayor and approval by the City Council, funding sources for the OPEB Trust Fund may also include:

(1) Amounts authorized to be transferred from the General Fund cash surplus, if any, available at the end of any fiscal year,

(2) Any funds resulting from changes or increases in contribution levels of employees or retirees to health costs,

(3) Any applicable State subsidies,

- (4) An amount equal to some portion of the City's annual pay-as-you-go expenditure for health costs,
- (5) Amounts raised by an annual tax levy for the benefit of such fund, and for no other purpose, if permitted by State law, provided such tax shall be levied and collected in the same manner and at the same time as the regular annual tax of the City;
- (6) Any other revenues identified by the Department of Management and Budget, the Finance Department, or the Mayor or City Council, and
- (7) Any other source allowed by law.

#### **2-495- Investment of the OPEB Trust Fund.**

(a) The City Treasurer shall be responsible for the care, custody, management and investment of all of the assets of the OPEB Trust Fund, under the direction of and with the approval of the OPEB Committee. The Treasurer shall have the power to invest and to reinvest said assets in equities, securities, real property and such other investments permissible by law for the investment of trust funds pursuant to the Connecticut Uniform Prudent Investor Act, Connecticut General Statutes § 45a-541 et seq or other relevant law.

(b) The City Treasurer shall be responsible for the deposit of funds from the OPEB Trust Fund in a qualified public depository or depositories as needed.

(c) The City Treasurer and the OPEB Committee members shall be fiduciaries of the OPEB Trust Fund and, in that capacity, shall fulfill their duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and purpose. They shall discharge their duties:

- (1) Solely in the interests of, and for the purpose of providing OPEB benefits to, retirees and their qualified dependents consistent with the provisions of this chapter and applicable law,
- (2) Impartially, taking into consideration any differing interests of various beneficiaries,
- (3) By diversifying the investments of the assets of the funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, and
- (4) In accordance with a good faith interpretation of law.

(d) Circumstances which shall be considered by the City Treasurer and the OPEB Committee in their deliberations shall include, but not be limited to, the following, to the extent relevant thereto:

- (1) General economic conditions,
- (2) The possible effect of inflation or deflation,
- (3) The expected tax consequences, if any, of investment decisions, strategies and distributions,
- (4) The role that each investment or course of action plays within a fund's overall portfolio,

- (5) The expected total return from income and the appreciation of capital,
- (6) Needs for liquidity, regularity of income and preservation or appreciation of capital,
- (7) An asset's special relationship or special value, if any, to the purposes of the fund,
- (8) The size and actuarial funding status of the fund, and
- (9) The nature and estimated duration of the fund.

(e) The fiscal integrity and economic well-being of the City being of primary significance in its ability to ultimately fulfill its obligations to financially support its OPEB obligations, the City Treasurer and the OPEB Committee, when possible and consistent with their other fiduciary duties imposed hereunder and consistent with applicable law, may consider whether the investment of any assets of, or expenditure of any income from, any fund will enhance or promote the general welfare of the City and its residents.

**Sec. 2-496. - Distributions.**

Distributions from the OPEB Trust Fund shall be made upon the presentation of appropriate financial information. At any time, but not more frequently than weekly, the finance director shall submit a statement or invoice for premiums and other allowable related costs or expenses due during such fiscal period for post-employment benefits due retired employees of the City, which statement shall include the amount to be paid from the OPEB trust fund. The City Treasurer shall make arrangements to withdraw from the OPEB Trust Fund an amount sufficient to pay such expenditures due.

**Sec. 2-497. - Fund assets not subject to sale, encumbrance, etc.**

No part of the OPEB Trust Fund assets shall be subject, in any manner, to sale, transfer, alienation, pledge, assignment, attachment, or any other encumbrance, whether voluntary or involuntary, by operation of law or court order. Any attempt to sell, transfer, alienate, pledge, assign or otherwise encumber the assets of the OPEB Trust Fund shall be void and of no force and effect.

**Sec. 2-498. - Termination of the OPEB trust.**

Although it is intended that the OPEB Trust Fund is to continue to operate indefinitely, upon recommendation of the OPEB Committee and approval of the City Council, the City may terminate the OPEB Trust Fund. Such approval shall require a supermajority vote [of 7 members] of the City Council equal to two thirds of the number of City Council seats plus one. Nothing in this Article shall prevent the elimination of certain OPEB benefits, the lowering of benefit levels, the capping of benefits, or converting plans from defined benefit to defined contribution plans, as appropriate, all in accordance with the provisions of this Article and the law. To the extent that there are any assets remaining in the OPEB Trust Fund, after such termination, remaining assets of the fund shall be disposed of in accordance with Connecticut General Statutes § 7-403a(f) or other applicable State law.

This ordinance shall take effect upon adoption.



