



# Metropolitan Nashville and Davidson County, TN

## Legislation Text

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**File #:** RS2021-1017, **Version:** 1

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A resolution approving the Benefit Board's waiver of repayment of pension benefit overpayments for pensioners under section 3.08.230 of the Metropolitan Code.

WHEREAS, the Metropolitan Council has adopted an employee benefit plan that is administered by the Metropolitan Employee Benefit Board; and,

WHEREAS, Metropolitan Code section 3.08.230(A) provides that if "error results in any member or beneficiary receiving from the system more or less than he would ... [have] been entitled to receive ... had the error not been made, the board, upon discovery of such error shall correct the error by adjusting, as far as practicable, the payments in such manner that the benefits to which the member or beneficiary was correctly entitled shall be paid"; and,

WHEREAS, Metropolitan Code section 3.08.230(A) further provides that "[i]n the event a member or beneficiary receives more pension benefit than he was entitled to receive, the board shall collect, by way of reducing pension payments or through a lump sum repayment, only the amount overpaid during the one-year period prior to discovery by the benefit board of ... such error which resulted in the pension overpayment"; and,

WHEREAS, the Metropolitan Employee Benefit Board has determined that as a result of a calculation process error, the eleven (11) pensioners set forth in Exhibit A attached hereto, have received greater pension benefits than they were entitled to receive; and,

WHEREAS, Metropolitan Code section 3.08.230(C) states: "Repayment of any amount overpaid to any member or beneficiary may be waived by the board where such overpayment was made through error committed by the board's staff and the board determines that the member or beneficiary: 1. Was without fault or knowledge of the error; 2. Did not participate in or induce the additional payment; 3. Had no way under the circumstances to know or, by the exercise of reasonable diligence, to know that an overpayment had been made; and 4. Would, due to repayment, be deprived of income required for ordinary and necessary living expenses"; and,

WHEREAS, the Metropolitan Employee Benefit Board has determined that the eleven (11) pensioners identified in Exhibit A attached hereto, satisfy the criteria set forth in Metropolitan Code section 3.08.230(C) for waiver of repayment; and,

WHEREAS, Metropolitan Code section 3.08.230(C) further states that "no waiver shall be final and take effect until the same shall have been approved by resolution of the metropolitan council."

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the Metropolitan Employee Benefit Board's waiver of repayment of pension benefits overpaid to the eleven (11) pensioners listed in Exhibit A attached hereto, is hereby approved.

Section 2. That this resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

### Analysis

This resolution approves the waiver of pension benefit overpayments made to 11 pensioners. The Metropolitan Employee Benefit Board (EBB) has determined that, as a result of a calculation process error, the 11 pensioners (ten survivor pensioners and one service pensioner) have received greater pension benefits than they were entitled to receive. Metro Code Section 3.08.230 permits the EBB to waive such overpayment if it was made through error committed by the Board's staff and the Board determines the beneficiary was without fault or knowledge of the error and would be deprived of income for living expenses if forced to repay the amount of overpayment. The EBB has approved this waiver.

*Fiscal Note: This resolution would waive a total of \$76,630.17 that would otherwise be due for the pension benefit overpayments. The overpayment for the eleven (11) affected pensioner ranged from \$896.55 to \$16,843.12 and averaged approximately \$6,966.38.*