

Summary of LOSAP Regulations

Part 154 – State-Administered Defined Contribution Programs

Section 154.1 – **Scope:** Defined contribution programs are authorized by Article 11-A of GML to provide municipally-funded, pension-like benefits for volunteer firefighters. Adoption requires the vote of at least 60 percent of the governing board of the municipality *and* the approval of a referendum by a majority of all eligible voters in the municipality. Plans must be administered by the municipality or the State Comptroller. The State Comptroller is required to adopt rules and regulations for programs administered by the State, which rules must include: standards for the selection of providers, the method and timing of required payments, reporting requirements, guidance on the preparation of plan documents, transfer application procedures, service credit procedures and other matters.

Section 154.2 – **Definitions.**

Section 154.3 – **Notice of adoption or transfer:**

- **Cost estimates** – Prior to adoption or transfer of a State-administered plan, the governing board of the municipality (the sponsor) must obtain an estimate of the annual cost of the plan from the Administrator (the State Comptroller or the administrative agency retained by the Comptroller for such functions). In the case of transfers, an estimate must also be obtained of any additional amount necessary to fully fund all existing obligations of the program.
- **Formal notification** – Notice from the sponsor must be made to the Administrator within 30 days after local approval of State administration of the program, including legal verification that the resolution has been adopted and the voters have approved the action.

Section 154.4 – **Adoption or transfer agreement:**

- **Agreement/Initial Payment** – The sponsor and the Administrator must enter into an agreement which sets forth the obligations of the sponsor and provides the details of the locally-determined features of the program. At the time of the agreement, the sponsor must pay in full the cash value of all program assets plus any additional amount determined by the Administrator to be necessary to fully finance all existing obligations of the program. Such payments must be made in cash.
- **Annual Payments** – The sponsor must expressly agree to pay to the Administrator on time all required annual contributions, fees, charges and assessments determined by the Administrator. The sponsor must also agree that the Comptroller shall have the authority to suspend or terminate operation of the program if the sponsor fails to make timely required payments and that the Comptroller may intercept State aid otherwise due to the sponsor to collect such required payments.

- **Program Features** – The locally-determined features of the program must be provided in the agreement, including entitlement age, the number of years of required fire service, the annual amount contributed by the sponsor for each participant, whether the program provides for prior service contributions and the amount of any optional additional line of duty or death benefit.
- **Disclosure Certification** – In the case of a transfer from local administration to State administration, the sponsor must certify that information has been disclosed to each program participant which shows the estimated effects of a program transfer, including estimated investment losses resulting from the liquidation of assets to make the initial payment to the Administrator.

Section 154.5 – **Collection of personal information:** Information must be provided annually for each volunteer firefighter who is a potential participant in the program.

Section 154.6 – **Service credit and payment of contributions:** Each fire company and fire department must keep a record of activities performed and points granted toward a year of firefighting service for each firefighter, regardless of participation in the program. Each fire company and department must annually certify a list of firefighters who qualify for a year of service credit; an appeals process is provided. This list forms the basis for the estimate of the annual contribution calculated by the Administrator on November 15th each year. A reconciliation payment process is provided to adjust for actual service credits to participants.

Section 154.7 – **Prior service contributions:** Sponsors must fully fund all prior service funding requirements with a full cash deposit or commit to funding such obligations in equal annual cash installments over five years.

Section 154.8 – **Distributions:** A service award equivalent to a participant's account balance is payable to a participant only when he/she reaches entitlement age and files an application for distribution with the Administrator, which must be approved by the Administrator. Distributions may be made in a lump sum or another manner selected by the participant. Participants who are totally and permanently disabled are entitled to receive their service awards regardless of whether entitlement age has been reached. In the event of the death of a participant, the participant's beneficiary is entitled to receive the participant's service award. Distributions may also include the payment of optional additional line of duty disability or death benefits provided at the option of local sponsors.

Section 154.9 – **Notice of amendment or termination:** A sponsor may amend or terminate its participation in a State-administered program. The sponsor is required to notify the State within 30 days of any such amendment or termination, including legal verification of compliance with statutory requirements regarding approval of the governing board and voter referendum.

Section 154.10 – **Administration:** All State-administered programs shall be administered by the State Comptroller, or by an administrative service agency or financial organization retained by the Comptroller to administer the programs. The Administrator shall fully administer the programs, including prepare a standard program document for use by all sponsors, prepare all necessary forms, compile and retain records, prepare and distribute reports and program summaries, record and process contributions made by sponsors and record and process distributions of service awards. The Program Trustee shall hold the assets of the programs in trust; receive and process contributions; invest assets of the trust; annually determine fair market value of the trust; make payments to program participants and provide timely information to enable the Administrator to prepare annual reports, statements and tax reporting forms.

Section 154.11 – **Program document:** The Administrator shall prepare a single program document setting forth the obligations of the sponsor, the rights of volunteer firefighters and participants, and standards and procedures for the administration of programs.

Section 154.12 – **Reports:** On or before September 30th of each year, the Administrator shall provide to each sponsor, fire company and fire department a report including information on the value of account balances, administrative expenses, interest earnings, investment losses and distributions for the preceding calendar year. Each fire company and fire department shall immediately provide each participant with corresponding information for his/her individual account.

Section 154.13 – **Disclosure:** Within six months after becoming a participant in a program, the Administrator shall provide each fire company and fire department with a summary of the program's provisions, which shall be provided to the participant. Copies of significant modifications which are subsequently made to the program must also be provided within six months of the effective date of the modifications.

Section 154.14 – **Standards for selecting service providers:** Service providers must be selected through a competitive process which takes into account the experience, ability, creditworthiness and cost of services provided by an entity.

Section 154.15 – **Acknowledgement:** Each entity selected to provide services in connection with this program must contractually agree to discharge its duties as fiduciary solely in the interest of program participants.

Section 154.16 – **Solicitation, education and confidentiality:** Service providers must agree not to use information obtained as a result of administering this program to solicit volunteer firefighters to purchase products of the entity. Educational materials about the benefits of the program, including potential tax consequences, may be provided to volunteer firefighters. All information obtained as a result of administration of the program is confidential and must be used exclusively for purposes relating to the program.

Part 155 – State-Administered Defined Benefit Programs

Section 155.1 – **Scope:** Defined benefit programs are authorized by Article 11-A of GML to provide municipally-funded, pension-like benefits for volunteer firefighters. Adoption requires the vote of at least 60 percent of the governing board of the municipality *and* the approval of a referendum by a majority of all eligible voters in the municipality. Plans must be administered by the municipality or the State Comptroller. The State Comptroller is required to adopt rules and regulations for programs administered by the State, which rules must include: standards for the selection of providers, the method and timing of required payments, reporting requirements, guidance on the preparation of plan documents, transfer application procedures, service credit procedures and other matters.

Section 155.2 – **Definitions.**

Section 155.3 – **Actuarial cost estimates:** Prior to adoption or transfer of a State-administered plan, the governing board of the municipality (the sponsor) must obtain an estimate of the annual cost of the plan from the Program Actuary (the actuary designated by the State Comptroller for the program). In the case of transfers, an estimate must also be obtained of any additional amount necessary to fully fund all existing obligations of the program.

Section 155.4 – **Notice of adoption or transfer:** Notice from the sponsor must be made to the Administrator within 30 days after local approval of State administration of the program, including legal verification that the resolution has been adopted and the voters have approved the action.

Section 155.5 – **Adoption or transfer agreement:**

- **Agreement/Initial Payment** – The sponsor and the Administrator must enter into an agreement which sets forth the obligations of the sponsor and provides the details of the locally-determined features of the program. At the time of the agreement, the sponsor must pay in full the cash value of all program assets plus any additional amount determined by the Administrator to be necessary to fully finance all existing obligations of the program. Such payments must be made in cash.
- **Annual Payments** – The sponsor must expressly agree to pay to the Administrator on time all required annual contributions, fees, charges and assessments determined by the Administrator. The sponsor must also agree that the Comptroller shall have the authority to suspend or terminate operation of the program if the sponsor fails to make timely required payments and that the Comptroller may intercept State aid otherwise due to the sponsor to collect such required payments.
- **Program Features** – The locally-determined features of the program must be provided in the agreement, including entitlement age, the number of years of required fire service, the benefit of the program for each participant, whether the program

provides for prior service contributions and the amount of any optional additional line of duty disability or death benefits.

- **Disclosure** – The sponsor must provide a copy of the program agreement to each fire company and fire department which has participants in the program.

Section 155.6 – **Collection of personal information:** Information must be provided annually for each volunteer firefighter who is a potential participant in the program.

Section 155.7 – **Service credit and payment of contributions:** Each fire company and fire department must keep a record of activities performed and points granted toward a year of firefighting service for each firefighter, regardless of participation in the program. Each fire company and department must annually certify a list of firefighters that qualify for a year of service credit; an appeals process is provided.

Section 155.8 – **Prior service credit and costs:** Sponsors must fully fund all prior service funding requirements with a full cash deposit or commit to funding such obligations in equal annual cash installments over five years.

Section 155.9 – **Sponsor contributions:** Each November 15th the Program Actuary shall estimate the amount that each sponsor is required to contribute to the program for the current calendar year, including the normal cost of the program, any prior service contributions and any additional amounts necessary to fully finance all existing obligations of the program. The sponsor must pay such amount within 60 days.

Section 155.10 – **Forfeitures:** After reasonable attempts have been made to notify a participant of a service award eligible for payment, the service award payable shall be considered forfeited for purposes of determining future sponsor contributions. A process is provided for restoring service credit to firefighters whose service credit has been forfeited.

Section 155.11 – **Distributions:** Unless otherwise elected to be received in an optional form by a participant, a service award shall be paid in the form of a monthly payment straight life annuity. Participants who are totally and permanently disabled are entitled to receive their service awards regardless of whether entitlement age has been reached. In the event of the death of a participant, the participant's beneficiary is entitled to receive the participant's service award. Distributions may also include the payment of optional additional line of duty disability or death benefits provided at the option of local sponsors.

Section 155.12 – **Program amendment:** A sponsor may amend a State-administered program.

Section 155.13 – **Program termination:** A sponsor may terminate its participation in a State-administered program. Upon termination, each participant who has earned non-forfeitable rights to a service award shall be paid in a single lump sum equal to the

actuarial value of the unpaid balance of the service award as of the date of termination. The total one-time cost to terminate the program shall be calculated by the Program Actuary and shall include the difference between the total cost of the lump sum distributions and the program assets; administrative costs shall also be included.

Section 155.14 – **Notice of amendment or termination:** A sponsor is required to notify the State within 30 days of any amendment or termination, including legal verification of compliance with statutory requirements regarding approval of the governing board and voter referendum.

Section 155.15 – **Administration:** All State-administered programs shall be administered by the State Comptroller, or by an administrative service agency or financial organization retained by the Comptroller to administer the programs. The Administrator shall fully administer the programs, including prepare a standard program document for use by all sponsors, prepare all necessary forms, compile and retain records, prepare and distribute reports and program summaries, record and process contributions made by sponsors and record and process distributions of service awards.

Section 155.16 – **Program Actuary:** The Program Actuary shall calculate estimated annual costs of programs; estimated termination costs; actual costs of programs; the amount of distributions of service awards and any other amounts, costs or actuarial present values related to the program. The Program Actuary shall disclose the actuarial assumptions and methodology used to calculate estimated and actual costs.

Section 155.17 – **Program Trustee:** The Program Trustee shall hold the assets of the programs in trust; receive and process contributions; invest assets of the trust; annually determine fair market value of the trust; make payments to program participants and provide timely information to enable the Administrator to prepare annual reports, statements and tax reporting forms.

Section 155.18 – **Program document:** The Administrator shall prepare, maintain and may amend the program document. The Administrator shall provide the chief executive officer of each sponsor with a copy of the program document setting forth the rights and obligations of the sponsor, volunteer firefighters and participants, and procedures for the administration of programs.

Section 155.19 – **Reports:** On or before September 30th of each year, the Administrator shall provide to each sponsor, fire company and fire department a report including information on the value of account balances, administrative expenses, interest earnings, investment losses and distributions for the preceding calendar year. Each fire company and fire department shall immediately provide each participant with corresponding information for his/her individual account.

Section 155.20 – **Disclosure:** Within six months after becoming a participant in a program, the Administrator shall provide each fire company and fire department with a summary of the program's provisions, which shall be provided to program participants.

Copies of significant modifications which are subsequently made to the program must also be provided within six months of the effective date of the modifications.

Section 155.21 – **Standards for selecting service providers:** Service providers must be selected through a competitive process which takes into account the experience, ability, creditworthiness and cost of services provided by an entity.

Section 155.22 – **Acknowledgement:** Each entity selected to provide services in connection with this program must contractually agree to discharge its duties as fiduciary solely in the interest of program participants.

Section 155.23 – **Solicitation, education and confidentiality:** Service providers must agree not to use information obtained as a result of administering this program to solicit volunteer firefighters to purchase products of the entity. Educational materials about the benefits of the program, including potential tax consequences, may be provided to volunteer firefighters. All information obtained as a result of administration of the program is confidential and must be used exclusively for purposes relating to the program.

Section 155.24 – **Optional forms of payment of service awards:** Various options are available for the payment of service awards to participants or their beneficiaries.