

**FIRST READING**

**CITY OF DOVER PROPOSED ORDINANCE #2009-10**

1 **BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN**  
2 **COUNCIL MET:**

3 That Chapter 2 – Administration, be amended by adding a new Article VI - Other Post-Employment  
4 Benefits Fund, to read as follows:

5 **ARTICLE VI. OTHER POST-EMPLOYMENT BENEFITS FUND**

6 **Section 2-501. Definitions.**

7 (a) "Board" means the Board of Trustees of the Other Post Employment Benefits Trust as  
8 established by this ordinance.

9 (b) "OPEB Fund" means the Other Post-Employment Benefits Fund established by Section  
10 2-502 of this title.

11 **Section 2-502. Establishment of fund.**

12 (a) There shall be established an OPEB Fund, a trust fund, separate and distinct from the  
13 funds established under Chapter 2, Article IV, Division 7, and Chapter 62, Article III of the  
14 City of Dover Code of Ordinances, the contributions to which are subject to City  
15 appropriations and rules regarding employer and/or employee contributions as may be  
16 promulgated, changed or amended from time to time, and to which earnings on investments,  
17 refunds and reimbursements shall be deposited upon receipt, and from which the City's  
18 premiums shall be paid, and any fees and expenses authorized by the Board shall be paid. No  
19 money shall be disbursed from this fund except for the purpose of payment of the City's  
20 premiums for postretirement health insurance for employees retired under Chapters 2 and 62  
21 of this title.

22 (b) The amounts remaining in the OPEB Fund, if any, after all premiums, fees, and expenses  
23 have been paid for any year shall be retained in such trust for future payments until all City  
24 liabilities for post-retirement health insurance premium benefits have been satisfied.

25 (c) The OPEB Fund shall be an irrevocable trust exempt from federal income tax under §  
26 115 of the Internal Revenue Code [26 U.S.C. § 115], remote from City creditors, and subject  
27 to the financial reporting, disclosure and actuarial requirements of Government Accounting  
28 Standards Board Statements 43 and 45 or any subsequent Government Accounting Standards  
29 Board updates or statements that may be applicable.

30 **Section 2-503. Management of the OPEB Fund.**

31 (a) The Board shall be comprised of the Controller/Treasurer, Human Resources Director,  
32 City Manager, and two City Council appointees. This Board shall adopt a trust agreement  
33 for the OPEB Fund (and may amend the trust agreement from time to time), shall take all  
34 actions necessary and appropriate to establish and maintain the OPEB Fund, and shall have  
35 control and management of the OPEB Fund and may utilize its powers pursuant to this  
36 chapter in the administration of the OPEB Fund.

37 (b) The Board shall take the actions necessary and appropriate to establish and maintain the  
38 OPEB Fund as a trust that is exempt from taxation under Internal Revenue Code § 115 [26  
39 U.S.C. § 115]. The trust shall be maintained and administered by the Board solely for the  
40 benefit of participants, retirees, and beneficiaries by providing payments for retiree health  
41 insurance for medical care in compliance with Internal Revenue Code § 105 [26 U.S.C. §  
42 105] and with this chapter as presented and verified by representatives and/or retiree health  
43 insurance service providers of the City.

44 (c) The Board shall have no ability or responsibility for setting benefit levels, handling  
45 claims, or arbitrating, mediating or otherwise adjudicating claims appeals. Those  
46 responsibilities continue to be handled in accordance with the Personnel Policies of the City  
47 of Dover.

48 (d) The City shall indemnify a Board member in the additional duties contained in this  
49 chapter pertaining to the administration and management of the OPEB Fund or to sit on a  
50 committee of the Board who was or is a party or is threatened to be made a party to any  
51 threatened, pending or completed action, suit or proceeding, whether civil, criminal,  
52 administrative or investigative by reason of the fact that the Board member is or was a Board  
53 member against expenses (including attorneys' fees if the City Solicitor determines that the  
54 City Solicitor may not provide representation), judgments, fines and amounts paid in  
55 settlement actually and reasonably incurred by that Board member in connection with such  
56 action, suit or proceeding, if the Board member acted in good faith and in a manner the  
57 Board member reasonably believed to be in the best interest of the City and with respect to  
58 any criminal action or proceeding had no reasonable cause to believe that Board member's  
59 own conduct was unlawful. Expenses incurred in defending a civil, administrative or  
60 investigative action, suit or proceeding shall be paid by the City in advance of final  
61 disposition of such action, suit or proceeding if:

62 (1) Initially authorized by a majority vote of the Board exclusive of the member or  
63 members to be indemnified unless more than a majority of the Board shall also be  
64 parties to the same action, suit or proceeding, in which instance, such authorization  
65 shall be by the City Council of the Dover; and

66 (2) Such Board member agrees to repay such amount if it is ultimately determined  
67 by the Board or the City Council, as the case may be, pursuant to paragraph (c)(1) of  
68 this section that such member is not entitled to indemnification under this section.

69 **Section 2-504. Actuarial valuations**

70 (a) The actuary shall prepare an actuarial valuation of the assets and liabilities of the OPEB  
71 Fund as of June 30, each year. On the basis of reasonable actuarial assumptions and tables  
72 approved by the Board, the actuary shall determine:

73 (1) The City's annual required contribution for payment of the City's premiums for  
74 post retirement health insurance for employees under the personnel policies of the  
75 City of Dover;

76 (2) Any unfunded actuarial accrued liability.

77 (b) The City anticipates making contributions to the OPEB Fund in such a manner that it  
78 will ultimately contribute its full annual required contribution within a period of years. In  
79 the interim, use of the OPEB Fund assets to pay retiree healthcare related premiums will be  
80 subject to the appropriations process of the City and the contribution and distribution  
81 processes necessary to carryout the efficient processing of retiree premium payments by the  
82 City. It is further anticipated that for auditing and reporting convenience, each current  
83 year's retiree healthcare expenses will be contributed and distributed from the OPEB Fund  
84 without respect to whether the full annual required contribution has been deposited.

85 ADOPTED: \*

86 **SYNOPSIS**

87 Establishment of an Other Post Employment Benefit (OPEB), a trust fund, separate  
88 and distinct from the funds established under Chapter 2, Article IV, Division 7, and  
89 Chapter 62, Article III of the City of Dover Code of Ordinances. The OPEB Fund  
90 shall be an irrevocable trust for the purpose of providing medical retirement benefits  
91 and subject to financial reporting, disclosure and actuarial requirements of  
92 Government Accounting Standards Board Statements (GASB) 43 and 45.

93 A Board of Trustees will also be appointed to adopt a trust agreement and take all  
94 actions necessary and appropriate to establish, maintain, and manage the OPEB Fund.

95 Actions History

96 April 13, 2009 - Introduced at Legislative, Finance, and Administration Committee