

**BY AUTHORITY**

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2010

COUNCIL BILL NO. CB10-0558  
COMMITTEE OF REFERENCE:  
Safety

**A BILL**

**for an Ordinance amending the City and County of Denver Old Hire Police Pension Plan by removing the requirement that members select a DROP distribution method within 30 days of retirement.**

**BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

**Section 1. That Section 566 of Chapter 18 of the Revised Municipal Code be amended by adding the underlined language and deleting the stricken language reading and to read as follows:**

**Sec. 18-566. - Deferred Retirement Option Plan (DROP).**

(a) Eligibility. To enter the Deferred Retirement Option Plan, a member must have completed at least twenty-five (25) years of active service and must be eligible to retire pursuant to section 18-554.

(b) Member's decision to enter DROP; member's decision regarding length of participation in the DROP. The decision to enter the deferred retirement option plan shall be each member's decision and responsibility. The decision regarding how long the member will participate in the DROP shall also be each member's decision and responsibility, provided no member shall be in the DROP more than five (5) years and no member may participate in the DROP more than once. However, members who filed an agreement prior to the extension of the plan to five (5) years and who have not separated from employment shall be allowed to file an agreement amending their date of termination to no later than the fifth anniversary of their participation in DROP.

(c) Agreement with the board. To enter the DROP, a member must execute an irrevocable agreement with the board. The agreement shall require the member to terminate employment no later than the date declared by the member; the date shall be no later than the fifth anniversary of participation in the DROP. The agreement shall also acknowledge that no disbursement of the DROP funds shall occur absent the separation or death of the member.

(d) Members who enter DROP are retired; pension payments. The members who enter the DROP shall continue to be active members of the police department for the duration

1 of the period specified in their agreements with the board. Upon commencement of  
2 participation in the DROP, the retirement benefit described in section 18-554, the rank  
3 escalator benefit described in section 18-556, and the employee contribution described  
4 in section 18-551 shall be paid into the deferred retirement option plan account on  
5 behalf of the employee. In no case shall the employer contribution be used to fund the  
6 DROP. As is the case with the employee contributions made to the plan before a  
7 member participates in DROP, the employee contribution to the DROP account shall be  
8 deposited by the employer in lieu of contributions by employees in accordance with  
9 Internal Revenue Code section 414(h)(2).

10 (e) Interruptions in service. If a member's service with the department is interrupted for  
11 any reason, the date of his or her termination of employment shall remain the date set  
12 forth in his or her agreement.

13 (f) Employee status while in DROP. Upon commencement of participation in DROP, the  
14 member shall continue to be considered to be an employee eligible to receive  
15 promotions, subject to department and civil service rules and regulations; the member  
16 shall receive all benefits and seniority just as any other active employee.

17 (g) Retirement benefit established at time of entry into DROP. DROP participants shall  
18 have full voting rights on the retirement system. DROP participants shall earn no  
19 additional service credit or additional benefits, and the rank escalator benefit described  
20 in section 18-556 shall be established and calculated by utilizing the rank and grade  
21 held by a member at the time of the member's commencement of participation in DROP.

22 (h) Investment of DROP funds. The DROP assets shall be held in trust for investment  
23 purposes as part of the member's self-directed investments fund. The FPPA shall be  
24 authorized to charge each account a reasonable fee approved by the FPPA for the  
25 administration of DROP. The FPPA is authorized to adopt rules and regulations  
26 governing DROP, so long as they are not in conflict with this division or the Charter. The  
27 FPPA shall not charge the city for any costs in connection with the DROP.

28 (i) No charges on DROP account. The deferred retirement option plan account shall not  
29 be subject to any fees or charges of any kind for any purpose, except as provided in  
30 paragraph (h) above.

31 (j) Termination of participation in DROP.

32 (1) A member in the DROP who terminates employment or reaches the limit for  
33 participation as established by the irrevocable agreement with the board shall become a  
34 retiree. An active or inactive member, including a retiree, shall be entitled to elect, within

1 thirty (30) days prior to retirement or anytime during retirement ~~within thirty (30) days~~  
2 ~~after retirement~~, one (1) of the following distribution methods by executing, in writing, a  
3 DROP distribution payment option selection form as prescribed by the board and the  
4 FPPA.

5 (a) Deferral of any payment(s) from the account until a specified date. If a deferral of  
6 payment(s) is selected, the member shall select one (1) of the following distribution  
7 methods. However, all distributions must start no later than April 1st of the year in which  
8 the member attains the age of 70 and one-half;

9 (b) A lump sum distribution of the entire account balance;

10 (c) Periodic monthly payments with a designated amount until the balance of the DROP  
11 account has been entirely distributed;

12 (d) Periodic monthly payments for a designated period of years. FPPA will calculate the  
13 dollar amount of the member's periodic payment, so that the entire balance in the  
14 member's DROP account will have been distributed to the member by the end of the  
15 period selected by the member. This amount will be recalculated annually during April;

16 (e) Initial minimum required distribution. FPPA will calculate the dollar amount of the  
17 member's periodic payment based on the member's current DROP account balance,  
18 and in accordance with subsection (j) of this section 18-566; or

19 (f) Combination of a lump sum and periodic payments by designating an initial lump sum  
20 payment of a specified amount and a balance to be paid in a specified number of  
21 monthly payments of a specified dollar amount until the balance of the DROP account  
22 has been entirely distributed to the member.

23 (2) Regardless of the form of payment the member chooses, the minimum distribution  
24 amount will be determined and made in accordance with Internal Revenue Code section  
25 401(a)(9) and the regulations thereunder. The minimum distribution is recalculated by  
26 FPPA annually on the bases of the life expectancy of the member and the member's  
27 designated beneficiary, if applicable.

28 ~~(3) If the member does not select a distribution method within thirty (30) days of~~  
29 ~~retirement, the member shall be deemed to have elected the lump sum payment~~  
30 ~~method.~~

31 ~~(4)~~ (3) If the member dies during the period of the member's participation in the DROP  
32 and the member's designated beneficiary is the member's surviving spouse to whom the  
33 member was legally married at the time of the member's death, the member's  
34 designated beneficiary shall be entitled to select one (1) of the distribution methods set

1       forth in subsection (j)(1) of section 18-566, and subject to the other provisions of  
2       subsection (j) of subsection 18-566. If no selection is made within thirty (30) days of the  
3       member's death, the lump sum payment method shall be utilized. Payment of DROP  
4       account proceeds shall be in addition to normal survivor benefits payable to survivors of  
5       retirees.

6       ~~(5)~~ (4) If a member or surviving spouse chooses a distribution method involving periodic  
7       payments, he or she may make a change in payment once a year during April; provided,  
8       that the benefit recipient shall contact the FPPA and the board in writing no later than  
9       March 1st of the year in which he or she wishes to make the change.

10       ~~(6)~~ (5) If the member dies during the period of participation and the member's named  
11       beneficiary is someone other than the member's surviving spouse to whom the member  
12       was legally married at the time of the member's death, the named beneficiary shall  
13       receive a lump sum payment equal to the member's individual DROP account balance,  
14       including accrued earnings or losses. Payment of DROP account proceeds shall be in  
15       addition to normal survivor benefits payable to survivors of retirees.

16       ~~(7)~~ (6) If the member dies during the period of participation and the named beneficiary  
17       has not survived the member, the member's estate shall receive a lump sum payment  
18       equal to the member's individual DROP account balance plus accrued earnings or  
19       losses. Payment of DROP account proceeds shall be in addition to normal survivor  
20       benefits payable to survivors of retirees.

21       ~~(8)~~ (7) Except for assignments for child support purposes and writs of garnishment that  
22       are the result of a judgment taken for arrearages for child support or for child support  
23       debt, and for court-approved marital agreements complying with state law under section  
24       14-10-113(6), C.R.S., no portion of the account, before or after its order shall be held,  
25       seized, taken, subjected to, detained, or levied on by virtue of any attachment,  
26       execution, injunction, writ, interlocutory or other order or decree, or process or  
27       proceeding whatsoever issued out of or by any court of this state for the payment or  
28       satisfaction, in whole or in part, of any debt, damage, claim, demand, or judgment  
29       against the city, the member, or the beneficiary of the fund.

30       (k) Internal Revenue Service approval required. Members may participate only after the  
31       police pension and relief board submits the original DROP plan to the IRS and the IRS  
32       approves.

33       (l) Compliance with IRS requirements. The board shall take all necessary steps to insure  
34       that the DROP is administered in full compliance with all applicable IRS rules and

1 regulations, and in compliance with all determinations issued specifically to this DROP  
2 plan.

3 (m) Required Internal Revenue Service provisions.

4 (1) The plan year is the calendar year.

5 (2) The effective date of this amendment to the plan shall be on the date approved by  
6 the fire and police pension association. The plan was originally effective April 8, 1978.

7 (3) The benefits payable from this plan are subject to the applicable limitations on  
8 benefits imposed by the Internal Revenue Code section 415(b), which are incorporated  
9 herein by reference. Deposits to the DROP account are not considered contributions to  
10 a defined contribution plan subject to the limits of Internal Revenue Code section 415(c).

11 COMMITTEE APPROVAL: (by consent) July 8, 2010

12 MAYOR-COUNCIL DATE: (by consent) July 13, 2010

13 PASSED BY THE COUNCIL: \_\_\_\_\_, 2010

14 \_\_\_\_\_ - PRESIDENT

15 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_, 2010

16 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
17 EX-OFFICIO CLERK OF THE  
18 CITY AND COUNTY OF DENVER

19 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_, 2010; \_\_\_\_\_, 2010

20 PREPARED BY: Max Taylor, ASSISTANT CITY ATTORNEY July 22, 2010

21 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the  
22 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
23 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to  
24 §3.2.6 of the Charter.

25 David R. Fine, City Attorney

26 By: \_\_\_\_\_, Assistant City Attorney      DATE: \_\_\_\_\_, 2010