

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2010

COUNCIL BILL NO. _____
COMMITTEE OF REFERENCE:
Safety

A BILL

for an Ordinance amending the City and County of Denver Old Hire Police Pension Plan which will remove the requirement for members to select a distribution method within 30 days of retirement.

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

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 of the period specified in their agreements with the board. Upon commencement of participation in the DROP, the retirement benefit described in section 18-554, the rank

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

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

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

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

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

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

29 (j) Termination of participation in DROP.

30 (1) A member in the DROP who terminates employment or reaches the limit for
31 participation as established by the irrevocable agreement with the board shall become a
32 retiree. An active or inactive member, including a retiree, shall be entitled to elect, within
33 thirty (30) days prior to retirement or within thirty (30) days after retirement, one (1) of
34 the following distribution methods by executing, in writing, a DROP distribution payment

1 option selection form as prescribed by the board and the FPPA.

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

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

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

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

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

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

20 (2) Regardless of the form of payment the member chooses, the minimum distribution
21 amount will be determined and made in accordance with Internal Revenue Code section
22 401(a)(9) and the regulations thereunder. The minimum distribution is recalculated by
23 FPPA annually on the bases of the life expectancy of the member and the member's
24 designated beneficiary, if applicable.

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

28 (4) (3) If the member dies during the period of the member's participation in the DROP
29 and the member's designated beneficiary is the member's surviving spouse to whom the
30 member was legally married at the time of the member's death, the member's
31 designated beneficiary shall be entitled to select one (1) of the distribution methods set
32 forth in subsection (j)(1) of section 18-566, and subject to the other provisions of
33 subsection (j) of subsection 18-566. If no selection is made within thirty (30) days of the
34 member's death, the lump sum payment method shall be utilized. Payment of DROP

1 account proceeds shall be in addition to normal survivor benefits payable to survivors of
2 retirees.

3 ~~(5)~~ (4) If a member or surviving spouse chooses a distribution method involving periodic
4 payments, he or she may make a change in payment once a year during April; provided,
5 that the benefit recipient shall contact the FPPA and the board in writing no later than
6 March 1st of the year in which he or she wishes to make the change.

7 ~~(6)~~ (5) If the member dies during the period of participation and the member's named
8 beneficiary is someone other than the member's surviving spouse to whom the member
9 was legally married at the time of the member's death, the named beneficiary shall
10 receive a lump sum payment equal to the member's individual DROP account balance,
11 including accrued earnings or losses. Payment of DROP account proceeds shall be in
12 addition to normal survivor benefits payable to survivors of retirees.

13 ~~(7)~~ (6) If the member dies during the period of participation and the named beneficiary
14 has not survived the member, the member's estate shall receive a lump sum payment
15 equal to the member's individual DROP account balance plus accrued earnings or
16 losses. Payment of DROP account proceeds shall be in addition to normal survivor
17 benefits payable to survivors of retirees.

18 ~~(8)~~ (7) Except for assignments for child support purposes and writs of garnishment that
19 are the result of a judgment taken for arrearages for child support or for child support
20 debt, and for court-approved marital agreements complying with state law under section
21 14-10-113(6), C.R.S., no portion of the account, before or after its order shall be held,
22 seized, taken, subjected to, detained, or levied on by virtue of any attachment,
23 execution, injunction, writ, interlocutory or other order or decree, or process or
24 proceeding whatsoever issued out of or by any court of this state for the payment or
25 satisfaction, in whole or in part, of any debt, damage, claim, demand, or judgment
26 against the city, the member, or the beneficiary of the fund.

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

30 (l) Compliance with IRS requirements. The board shall take all necessary steps to insure
31 that the DROP is administered in full compliance with all applicable IRS rules and
32 regulations, and in compliance with all determinations issued specifically to this DROP
33 plan.

34 (m) Required Internal Revenue Service provisions.

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

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

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

8
9
10 COMMITTEE APPROVAL: _____, 2010.

11 MAYOR-COUNCIL DATE: _____, 2010.

12 PASSED BY THE COUNCIL _____ 2010

13 _____ - PRESIDENT

14 APPROVED: _____ - MAYOR _____ 2010

15 ATTEST: _____ - CLERK AND RECORDER,
16 EX-OFFICIO CLERK OF THE
17 CITY AND COUNTY OF DENVER

18 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2010

19 PREPARED BY: _____, ASSISTANT CITY ATTORNEY _____ 2010

20 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
21 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
22 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to §3.2.6 of
23 the Charter.

24
25 City Attorney

26 By: _____, _____ City Attorney - _____, 2010