

BY AUTHORITY

ORDINANCE NO. _____

COUNCIL BILL NO. _____

SERIES OF 2012

COMMITTEE OF REFERENCE:

A BILL

For an Ordinance amending Section 18-436 and 18-437 of Article XIII of Chapter 18, Employees' Voluntary Deferred Compensation Plan.

WHEREAS, Article XIII of Chapter 18 provides for the administration of the Denver Employee's Voluntary Deferred Compensation Plan; and,

WHEREAS, the City Council finds that Sections 18-436 and 18-437 should be amended, to institute the operational and administrative changes set forth herein.

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

Section 1. Section 18-436 of the Denver Revised Municipal Code shall be amended by adding the language underlined, and deleting the language struck out, to read as follows:

(a) The plan shall be administered by the committee and the committee shall represent the city in all matters concerning the plan. The committee shall consist of nine (9) ~~seven (7)~~ voting members, two (2) of which shall be plan retirees and at least one (1) of which shall have working knowledge or experience with retirement plans. All appointed committee members shall be participants of the plan. Six (6) ~~six (6)~~ of the committee members whom shall be appointed by the mayor, and serve at the mayor's pleasure, and be contributing members of the plan. Two (2) of the committee members shall be appointed by and serve at the pleasure of City Council, one (1) of which shall be a plan retiree. The City Council appointees shall be appointed to the following terms: one (1) shall be appointed to a three (3) year term, and one (1) shall be appointed to a four (4) year term. The manager of revenue finance or his designee, shall be the ninth ~~seventh~~ member. The city attorney shall serve as an ex-officio nonvoting member, but shall not be eligible to serve, nor serve, as a trustee. The city attorney shall advise the committee of any changes in applicable law affecting the status of the plan under section 457 of the Internal Revenue Code and regulations promulgated thereunder. The terms of office of the six (6) appointed members shall be ~~(6) years with appointments made, to the extent practicable, at yearly intervals, and members shall be eligible for reappointment. The committee at its first meeting each year shall elect a chair and vice chair. The committee shall engage the services of at least two (2) organizations to assist the committee in the administration of the plan.~~

(1) The committee members first appointed after the effective date of this section shall be appointed as follows so as to create staggered terms: Two (2) members shall be appointed to serve for two (2) years, three (3) members shall be appointed to serve for three (3) years, and three (3) members shall be appointed to serve for four (4) years. After these initial appointment terms have been served, each committee member shall be appointed thereafter for a four-

year term. Committee members shall be eligible for reappointment.
(2) The committee at its first meeting each year shall elect a chair and vice-chair. The chair and/or vice-chair shall report at least annually to the city council regarding the status of the plan.

(b) The committee shall have full power and authority to prepare an annual budget, adopt and, from time to time, amend the plan, to establish procedures for rules and regulations, and to adopt and implement rules and regulations for the administration of the plan, provided such rules and regulations are not inconsistent with the provisions of this article, section 2.5.3(D) of the Denver Charter, or section 457 of the Internal Revenue Code, and to interpret, alter, amend, or revoke any rules and regulations so adopted. The committee may engage professional services as deemed necessary by the committee in its sole discretion to administer the plan.

(d) Trustees acting under trust agreements, or custodians acting under custodial agreements, or insurers administering qualifying insurance (group annuity) contracts, or any combination of them, may be ~~but need not be selected and engaged by the~~ committee. Such trustees, custodians, or insurers may be removed by the committee at any time, and others may be selected by the committee, but at no time shall less than two (2) organizations be engaged pursuant to this paragraph. Such entities so engaged shall be institutions properly authorized under national or state laws to conduct a trust, custodial, or insuring business, and their expenses shall be paid out of the plan assets subject to the prior approval of the committee. The committee is hereby authorized to execute the appropriate trust, custodial, or group annuity insuring agreements not inconsistent with the provisions of the plan and the provisions of section 457 of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder, with those entities properly selected as set forth above. Any change in the form of management of the fund assets from that described in the plan shall require the prior written approval of the committee.

Section 2. Section 18-437 of the Denver Revised Municipal Code shall be amended by adding the language underlined, and deleting the language struck out, to read as follows:

Elected officials and all permanent and temporary officers and employees of the city, including, but not limited to, those employed within the career service and the classified service of the police and fire departments and those appointed and employed by the mayor; the auditor; the city council; the civil service commission; the clerk and recorder; the district attorney; the library; the county court; and the board of adjustment-zoning, who execute an agreement with the committee assenting to the provisions of the plan may participate in the plan. Retirees with a cumulative plan account balance in excess of five-thousand dollars (\$5,000) shall also be considered participants of the plan for purposes of Section 18-436.

COMMITTEE APPROVAL DATE: _____

MAYOR-COUNCIL DATE: _____

PASSED BY THE COUNCIL _____, 2012

_____ - PRESIDENT

APPROVED: _____ - MAYOR _____, 2012

1 ATTEST: _____ - CLERK AND RECORDER,
2 EX-OFFICIO CLERK OF THE
3 CITY AND COUNTY OF DENVER
4

5 NOTICE PUBLISHED IN THE DAILY JOURNAL _____, 2012; _____, 2012

6 PREPARED BY: Robert McDermott - Assistant City Attorney DATE: _____
7 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
8 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
9 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
10 § 3.2.6 of the Charter.
11

12 Douglas J. Friednash, City Attorney for the City and County of Denver

13 BY: _____, _____ City Attorney

14 DATE: _____