

ORDINANCE/RESOLUTION REQUEST

Please email requests to milehighordinance@denvergov.org and copy stacie.loucks@denvergov.org by **NOON on Monday**.

****All fields must be completed.****

Incomplete request forms will be returned to sender which may cause a delay in processing.

Date of Request: August 11, 2015

Please mark one: Bill Request or Resolution Request

1. Has your agency submitted this request in the last 12 months?

Yes No

If yes, please explain:

2. Title: *(Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: grant acceptance, contract execution, amendment, municipal code change, supplemental request, etc.)*

Lower the actuarially assumed rate of investment return to 7.75% from the current rate of 8.0%, and make several technical amendments to the DERP governing ordinance to remove obsolete language or clarify the precise intent of certain existing Code language.

3. Requesting Agency: DERP

4. Contact Person: *(With actual knowledge of proposed ordinance/resolution.)*

- **Name:** Steven E. Hutt, Executive Director
- **Phone:** 303-839-5419
- **Email:** shutt@derp.org

5. Contact Person: *(With actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)*

- **Name:** Steven E. Hutt, Executive Director
- **Phone:** 303-839-5419
- **Email:** shutt@derp.org

6. General description of proposed ordinance including contract scope of work if applicable:

Lowers the actuarially assumed rate of investment return to 7.75%. In light of work done by DERP's investment consultant indicating lower 10-year expected returns for the DERP-specific asset allocation, the Retirement Board believes that a more prudent return assumption is now 7.75%, rather than the current rate of 8.0%.

Make several non-substantive, technical changes (affecting neither the calculation of benefits nor the payroll contribution rates), to remove obsolete language or clarify the precise intent of existing Code provisions.

****Please complete the following fields:** *(Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field.)*

- a. **Contract Control Number:** N/A
- b. **Duration:** N/A
- c. **Location:** N/A
- d. **Affected Council District:** N/A
- e. **Benefits:** Lowers the actuarially assumed rate of investment return to a more prudent return rate, and clarifies certain other technical provisions in the DERP section of the DRMC.
- f. **Costs:** Would normally increase the Actuarially Required Contribution by approximately 1%, but that additional 1% is already being paid jointly by the City and the employees as of 1-1-15, so no rate increase is being sought.

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date Entered: _____

7. Is there any controversy surrounding this ordinance? (Groups or individuals who may have concerns about it?) Please explain.

The only people likely to have a concern about this are the 533 individuals (out of the DERP membership of approximately 21,000) who were part of the Deferred Retirement Option Programs (DROP I and II) between 2001 and 2003, who still have individual, supplemental account balances on deposit with DERP. They accrue interest based on the assumed rate of investment return, and thus they will earn slightly less annual interest, but still at a rate (7.75%) far in excess of what is achievable in the market for a guaranteed rate of return on immediately available funds.

Executive Summary:

The following modifications to the Denver Employees Retirement Plan would result from the enactment of this bill:

1. Lower the actuarially assumed rate of return to 7.75% from 8.0%.

Current Ordinance language sets the interest rate to be used for the actuarial assumption of investment return at eight (8) percent. The assumed rate is the rate of investment return (including inflation) that the Plan is expected to earn over the long term. In light of work done by the Plan's investment consultant indicating lower 10-year expected returns for the DERP-specific asset allocation, the Retirement Board believes that a more prudent return assumption is now seven and three-quarters of a percent (7.75%).

2. Replace the term "investment manual" with "investment policy."

The Ordinance currently requires the Plan to have an investment manual setting forth the current and long-term goals and objectives for the trust fund, and the policies and procedures to be used in the management and safekeeping of the trust fund. This change in terminology will reflect the more comprehensive nature of the document pertaining to the Plan's investments which the Retirement Board updates annually.

3. Clarify the "re-employment by the employer" section of the Ordinance to remove obsolete language which makes reference to the 2009 Special Incentive Plan (SIP) that is no longer applicable to any members; define what the term "re-employment" is in order for a member to fall under the 1,000 hour rule; and replace the words "terminate" and "termination" with the words "suspended" and "suspension" to conform this Section of the Ordinance with previous amendments adopted by the City Council in 2011.

4. Add specific language defining which Social Security benefit estimate or payment shall be used when a member is receiving benefit payments from the Social Security Administration at the time when DERP's Social Security make-up benefit is calculated by the Plan. This amendment will clarify that it is the benefit the member is actually receiving at the time the Plan's Social Security make-up benefit becomes payable which will be used in the formula to calculate this benefit.

5. Section 18-410(c) of the Code currently refers to beneficiaries in the plural. However, under the Internal Revenue Code ("IRC") Section 401(a)(9)(A)(ii), in order to constitute a qualified trust a member's interest in the Plan cannot extend beyond the life expectancy of the member and a designated beneficiary. A designated beneficiary is defined in IRC Section 401(a)(9)(E) as any "individual" designated as a beneficiary by the member. In order to clearly inform members as to the proper authorized beneficiary designation, the change from "beneficiaries" to "beneficiary" is deemed necessary. Additionally, Section 18-418 of the Code prohibits members from transferring or assigning their benefits. The Plan has received requests to name a trust as the designated beneficiary and it has been determined that a clear statement prohibiting a trust from being named as a member's beneficiary needed to be made.

6. In 2013, the City Council approved an amendment to the Code, under Section 18-405, which specifically sets forth the Retirement Board's authority regarding various collection procedures that the Plan may use to recover improperly paid benefits. This proposed amendment would reference that authority in the Code section regarding monthly payment of benefits, stating that the Plan "shall" use that authority as necessary to recover erroneously paid amounts.

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