

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: October 25, 2016

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.)*

Makes miscellaneous changes to the DRMC sections pertaining to DERP, none of which change either the City or employee payroll contribution rates or the calculation of retirement benefits.

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:

Enhance provisions relating to pre-retired members' beneficiaries, including authorizing a contingent beneficiary to be designated by the member; establish an annually-variable interest rate for refund of employee contributions to non-vested members; provide for internet posting of upcoming Retirement Board meeting agendas; and several non-substantive "housekeeping" changes.

****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:** Takes proactive measures to ensure that an active or deferred member's contributions or retirement benefit does not revert to the Plan upon the member's death prior to retirement, but is instead paid, via a monthly retirement benefit or a refund of contributions, to a beneficiary or his/her estate. Ensures that the interest rate paid on refunded employee contributions to non-vested members is a current market rate. Clarifies certain other technical provisions in the DERP section of the DRMC.
- f. **Costs:** None.

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.

There is no controversy surrounding this ordinance.

Executive Summary:

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

1. Change the interest rate applied to the refund of accumulated employee contributions from a fixed rate to an annually variable rate to be set by the Retirement Board.

Current Code language sets the interest rate to be applied to the refund of accumulated employee contributions for those members who terminate employment prior to becoming vested, as well as for those few members with pre-1979 contributions, at a fixed rate of 3% per annum compounded annually. In light of the fact that market interest rates have been below 3% for many years, as well as the fact that interest rates fluctuate, the Retirement Board believes that a more prudent approach to applying interest to the refund of contributions is to have the Retirement Board set the interest rate on an annual basis, not to exceed the current 3% per annum.

2. Add language to the Code authorizing active and deferred-retirement members to name a contingent beneficiary for situations where the primary beneficiary designation fails and the member does not name a new primary beneficiary.

Currently, there is no Code provision which allows an active or deferred-retirement member to name a contingent beneficiary who would receive any earned retirement benefit in the event the member's beneficiary passes away before, or at the same time as, the active or deferred member. There have been a very few situations in which a member has passed away but failed to maintain a valid beneficiary designation with the Plan. In such case, the retirement benefit has reverted to the Plan with no payments able to be made to anyone. The proposed amendment would attempt to avoid this type of situation by authorizing active or deferred members to name a contingent beneficiary.

3. Add language which allows the Plan to refund, upon the death of an active or deferred member, the employee contributions to such member's estate, if an active or deferred member's beneficiary designation fails.

From January 1, 1979 through October 1, 2003, there were no employee contributions paid to the Plan, only employer contributions, which, by law, must remain with the Plan for the benefit of members or their beneficiaries and cannot be directly paid to members, other than through a monthly retirement benefit. In 2003 when the City changed the Ordinance so that employees would begin making contributions to the Plan, no corresponding language was added allowing the Plan to refund the employee contributions to a member's estate should the member pass away prior to applying for and receiving his/her retirement benefits, and without having a valid beneficiary designation on file. Absence of such language in the Ordinance means that, in such a rare situation, any employee contributions revert to the Plan and are not paid, even to the member's estate. Many public pension plans have a provision which authorizes the return of employee contributions to the member's estate if, following the death of an active or deferred member, benefits cannot be paid due to a failed beneficiary designation. The proposed amendment would authorize the Plan to pay the active or deferred member's employee contributions to the member's estate, in cases where the member passes away without having a valid beneficiary on file.

4. Add language to the Code which authorizes the Plan to pay a deferred member's named beneficiary a monthly retirement benefit if the member passes away with no spouse, children under age 21, or domestic partner/spousal equivalent.

Regardless of the relationship of the person a member names as his/her primary beneficiary, Code provisions set forth the order in which the Plan must pay benefits to beneficiaries of members, if a member dies prior to retirement. A surviving spouse receives precedence, followed by any children under the age of twenty-one (21), then a committed partner or spousal equivalent. For deferred members only, if he/she dies prior to applying for and receiving retirement benefits, and there is no beneficiary from this authorized list, no benefit is paid from the Plan to anyone and the retirement benefit reverts to the Plan. The proposed amendment would conform this section of the Code with other Code sections that authorize the Plan to pay benefits to the beneficiary designated by the member, if living at the time of the member death, where there are no other precedential beneficiaries.

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5. Remove obsolete language in various sections of the DRMC, and bring existing Code language into precise conformance with related sections of the Code.

Examples of these changes are as follows:

a. Remove the requirement that mandates notice of Retirement Board meetings be sent to every city department, and replace it with a requirement that notice be posted on the Plan’s website.

The Code currently requires the Plan to send notice of Retirement Board meetings to each city department. Notice of Retirement Board meetings is already also posted on the Plan’s website, which is viewable by all city departments, as well as their employees who likely would not have seen a copy of the notice delivered specifically to their department head. This proposed amendment will reflect the current electronic manner in which people tend to access information, and remove an unnecessary administrative task from the Plan staff.

b. Amend 3 sections of the Code which describe the manner in which a retired member’s benefit is recalculated upon the death of a member’s designated beneficiary, in order to have consistent language throughout the Code.

If a retired member’s named beneficiary should predecease the member, the benefit to the member is recalculated so that the member begins receiving an increased, single straight-life annuity for the remaining life of the member. There are currently 3 sections of the Code which use technically differing language to describe the recalculation that is to occur in that situation. The proposed amendment would ensure that language describing such a recalculation is consistent throughout.

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