

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2023

COUNCIL BILL NO. CB23-XXXX
COMMITTEE OF REFERENCE:

A BILL

For an ordinance amending the 1963 Retirement Plan with regard to definitions, retirement benefits, Internal Revenue Code qualification requirements, disability retirement application; actuarial matters,.

WHEREAS, under Section 18-405(g) of the Code, the Retirement Board is responsible for making recommendations to the City for amendments to the Plan when in the judgment of the Board such changes are necessary; provided that such recommendations are accompanied by a report of the Plan's actuary setting forth the effect of such amendments; and,

WHEREAS, while in the process of administering the Plan, it has been determined that the clarification of various procedures or legal requirements applicable to the Plan, as well as the removal of obsolete language, has become necessary to assist the Plan in administering benefits, explaining the benefits available to members and their beneficiaries, and to ensure uniformity in the application of terms within the Plan.

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

Section 1. That Section 18-402(9) of the Revised Municipal Code, relating to definitions be amended by deleting the language struck through and adding the language underlined as follows:

Sec. 18-402. Definitions.

* * * *

(9) Credited service shall mean the number of years and months (and fractions thereof) of service for which contributions on behalf of the member were received by the plan based on the member's compensation, and the number of years and months (and fractions thereof) of permissive service credit (subject to the terms provided in this division) obtained by the member prior to the retirement date and

credited to such member by the retirement board.

* * * *

(c) In determining credited service, the plan shall count current service for fractional years and months on the basis of ~~one-twelfth of one (1) year for each full calendar month~~ pay period of service.

* * * *

- (13) Employee shall mean any employee of the city who regularly works for the city at least forty (40) hours in a biweekly pay period, ~~twenty (20) hours per week~~, but shall not mean or include those reemployed pursuant to subsection 18-408(j)(7) of this article, or persons holding on-call positions ("on-call position" shall mean and include those positions which have no established work schedule and for which no employee benefits are available). The term "regularly works" shall mean and apply to a person who works at least forty (40) hours in a biweekly pay period ~~twenty (20) hours per week~~ for a total of six (6) twelve (12) or more biweekly pay periods ~~weeks~~ in a rolling twelve-month period.

Section 2. That Section 18-404(4) of the Revised Municipal Code, relating to Internal Revenue Code Qualification requirements be amended by deleting the language struck through and adding the language underlined as follows:

Sec. 18-404. Qualification requirements—Internal Revenue Code.

* * * *

- (4) A member's benefit shall begin no later than April 1 of the calendar year following the calendar year in which the member reaches the age of ~~seventy-three and one-half (73 $\frac{1}{2}$)~~ seventy-three and one-half (73 $\frac{1}{2}$) years or retires, whichever is later.

Section 3. That Section 18-405(b)(3) of the Revised Municipal Code, relating to powers of the retirement board, be deleted in its entirety and replaced with the following:

Sec. 18-405. Retirement board.

* * * *

- (b) *Additional powers.* In addition to the general authority granted to the retirement board to carry out and administer the plan and the trust assets, and in no way in limitation of such authority, the board shall have the following powers:

* * * *

(3) The authority to recover from benefit recipients, through legal process or benefit offset, any benefits or premiums improperly paid to them or on behalf of them to which they or their beneficiaries are not entitled, and to assess interest on such money at the general statutory rate. When a benefit offset is not available as a means to collect, the plan may employ any collection method available, including assigning such accounts to private counsel or private collection agencies. If a legal suit is brought, then reasonable collection costs, attorney's fees, and legal expenses shall be added to the amount due. In the case of dishonored bank drafts and other negotiable instruments, the plan may pursue all remedies provided for in the Colorado Revised Statutes.

The benefit recipient or their beneficiary(ies) shall be liable for repayment of the total of the amount outstanding plus any collection fees or costs. The plan may, at its option, waive the collection fee for good cause shown.

Section 4. That Section 18-405(c)(2) of the Revised Municipal Code, relating to powers of the retirement board, be deleted in its entirety and the remainder of Section 18-405(c) be re-numbered to read as follows:

Sec. 18-405. Retirement board.

* * * *

(c) Meetings and notices.

(1) Regular meetings of the retirement board shall be held on regular business days chosen by the retirement board.

(2) Special meetings may be called by not less than two (2) retirement board members and shall be held on a regular business day as chosen by the retirement board. Notice of the date of special meetings shall be transmitted to each member of the retirement board within a reasonable period of time before such meetings are held.

(3) All meetings of the retirement board shall be public and shall be held in the offices of the retirement plan unless another location within the city is selected by the board by giving notice thereof in advance. All notices shall be published and provided in accordance with the open meetings laws and shall be posted on the plan's Internet website at least one (1) week before each meeting indicating the time and place of the meeting. Three (3)

1 members of the retirement board shall constitute a quorum at any meeting, and each
2 member shall be entitled to one (1) vote. Annually the retirement board shall elect one
3 (1) of its members to preside over the board and its meetings as chairperson, and to
4 perform such related duties as may be required by the retirement board. The retirement
5 board shall also elect another member as vice-chair to perform those duties in the
6 absence of the member routinely presiding.

7
8 **Section 5.** That Section 18-405(d) of the Revised Municipal Code, relating to vacancy of
9 office and role of the advisory committee, be amended by deleting the language struck
10 through and adding the language underlined as follows:

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12
13 Sec. 18-405. Retirement board.

14 * * * *

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17 (d) Advisory committee.

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21 (3) Vacancy of office. If an advisory committee member should vacate the
22 office before the term expires, the office shall be filled by the person receiving
23 the second highest number of votes at the election immediately preceding the
24 vacancy who meets the qualifications of this division. The person appointed to
25 fill the vacated office shall serve the remainder of the vacated term until the next
26 ~~regular election where the office shall be filled by the person receiving the~~
27 ~~second highest number of votes at that election who meets the qualifications of~~
28 ~~this division.~~

29 * * * *

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31
32 (5) Role of advisory committee members. The duty and function of the
33 advisory committee shall be to present to the retirement board, ~~but not to~~
34 ~~trustees or investment managers,~~ suggestions and questions which are in the
35 interest of the general membership of the plan.

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37
38 **Section 6.** That Sections 18-408(d)(2)(b) and (e)(2)(b) of the Revised Municipal Code,
39 relating to application for disability retirement benefits, be amended by deleting the language
40 struck through and adding the language underlined as follows:

41
42 Sec. 18-408. Retirement Categories.

43 * * * *

d) Disability retirement resulting from service duty. Disability retirement resulting from service duty shall be available to any active member who becomes totally and permanently disabled as defined below in this subsection (d) prior to the member's normal retirement date. The effective date of retirement shall be the first day of the month following termination of employment with the employer by reason of the disability:

* * * *

- (2) Total and permanent disability for disabilities which occur after July 31, 2005, shall be awarded when, and the phrase "totally and permanently disabled" for disabilities which occur on or after August 1, 2005, is defined as occurring when:

* * * *

- (b) The injury or occupational disease occurs not more than twenty-four (24) months before the effective date of retirement. Exceptions to this twenty-four (24) month requirement may be made by the executive director upon a showing of good cause and due diligence on the part of the member; and

* * * *

(e) Disability retirement not resulting from service duty. As set forth below in this subsection (e), disability retirement not resulting from service duty shall be available to all totally and permanently disabled active members whose appointment occurs after December 31, 1962, upon completion of ten (10) years of credited service; and shall also be available to all totally and permanently disabled active members whose appointment occurs after December 31, 1988, upon completion of five (5) years of credited service.

* * * *

- (2) For disabilities that occur on or after August 1, 2005, disability retirement not resulting from service duty for total and permanent disability shall be awarded when:

* * * *

- (b) The disease or accidental injury occurs not more than twenty-four (24) months before the effective date of retirement. Exceptions to this twenty-four (24) month requirement may be made by the executive director upon a showing of good cause and due diligence on the part of

1 the member; and

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3
4 **Section 7.** That Section 18-410(a)(6) of the Revised Municipal Code, relating to joint and
5 survivor benefits and minimum distribution requirements be amended by deleting the
6 language struck through and adding the language underlined as follows:
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8 Section 18-410. Joint and Survivor Benefits.
9

10 (a) Spousal consent, incidental benefit requirements and required distributions.
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12 * * * *

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14 (6) Minimum distribution requirements. Notwithstanding any other provision of the
15 plan, the entire interest of a member under the plan, including incidental death
16 benefits and any other non-retirement benefits provided under the plan, shall be
17 paid in accordance with the minimum distribution requirements of section
18 401(a)(9) of the Internal Revenue Code, including those provisions pertaining
19 to non-spousal beneficiaries, to the extent such requirements are applicable to
20 governmental plans. Pursuant to such requirements, the interest of each
21 member in the plan must be distributed beginning not later than the member's
22 required beginning date, if such date is earlier than the date on which benefits
23 otherwise would begin under the terms of this plan. The required beginning date
24 of a member is the April 1 of the calendar year following the calendar year in
25 which the member attains age seventy-three and ~~one-half~~ (70½~~73~~) or retires,
26 whichever is later.
27

28
29 a. In the event a member dies before distributions have commenced
30 to the member in accordance with the requirements of section 401(a)(9)
31 of the Internal Revenue Code and the plan, the entire interest of such
32 member must be distributed within five (5) years after the death of such
33 member, unless the member's interest is payable, under the terms of the
34 plan, to the member's surviving spouse or designated beneficiary over
35 the life expectancy of such surviving spouse or designated beneficiary.
36 In that event, distribution of the member's interest must begin not later
37 than one (1) year after the death of the member. Notwithstanding the
38 above, if the member's interest is payable, under the terms of the plan,
39 to the member's surviving spouse, the date on which distributions must
40 begin under this paragraph (5) will not be earlier than the date on which
41 the member would have attained age seventy-three and ~~one-half~~
42 (70½~~73~~) and, if the surviving spouse dies before distributions to such
43 surviving spouse begin, this paragraph (5) will be applied as if the
44 surviving spouse were the member.
45

46 b. In the event a member dies after distributions have commenced
47 to the member in accordance with the requirements of section 401(a)(9)
48 of the Internal Revenue Code and the plan, the remaining interest of such

1 member must be distributed to the surviving spouse or other designated
2 beneficiary entitled thereto under this article at least as rapidly as under
3 the method of distribution being used as of the date of the member's
4 death.
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7 **Section 8.** That Section 18-413(b)(3) of the Revised Municipal Code, relating monthly payment
8 of benefits and minimum distribution requirements be amended by deleting the language struck
9 through and adding the language underlined as follows:
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11 Section 18-413. Monthly payment of benefits.
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14 (b) Delivery.
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21 (3) ~~For two (2) consecutive months, if~~ If, at least twice in any twelve (12)
22 month period, the United States Postal Service returns to the plan as
23 undeliverable a retirement payment (for those members who receive a check
24 under subsection 18-413(b)(1)a.), or returns to the plan as undeliverable a
25 notice of deposit (for those members who have direct deposit under either
26 subsection 18-413(b)(1)b. or subsection 18-413(b)(2)), or returns to the plan
27 any correspondence mailed to the member to the last known address shown in
28 the records of the retirement plan, or if any other agreed upon delivery method
29 for any member communication fails, a member's monthly retirement benefit
30 ~~shall~~may be suspended until the plan is able to confirm the address or delivery
31 details of the member or his or her beneficiary. The plan shall not be held liable
32 for the non-payment of the benefit and the loss of the opportunity of use of any
33 payments temporarily withheld under this section pending the determination of
34 the status or location of the member. Additionally, the benefit payments and
35 interest or earnings on those benefits and future benefits, if any, continuing to
36 be withheld pending the determination of the status or location of the member,
37 shall be held by the plan as unclaimed property and held and disposed of in
38 accordance with the terms thereof.
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42 **REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**
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1 COMMITTEE APPROVAL DATE: NOT SURE OF DATE
2 MAYOR-COUNCIL DATE: NOT SURE OF DATE
3 PASSED BY THE COUNCIL: _____
4 _____ - PRESIDENT
5 APPROVED: _____ - MAYOR _____
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____;
10 PREPARED BY: Robert A. McDermott, Assistant City Attorney DATE: ?????????
11 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
12 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to § 3.2.6
14 of the Charter.
15
16 Kerry Tipper, Denver City Attorney
17 BY: _____, Assistant City Attorney DATE: _____