



**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 18-0326

NOV 01 2018

**REPORT RE:**

**DRAFT ORDINANCE AMENDING SECTIONS 4.2100, 4.2101, 4.2102,  
4.2103 AND 4.2105 OF CHAPTER 21 OF DIVISION 4 OF THE LOS ANGELES  
ADMINISTRATIVE CODE AND ADDING SECTION 4.2110 TO MODIFY  
THE DEFERRED RETIREMENT OPTION PLAN**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Council File No. 18-0117

Honorable Members:

Pursuant to the request of the Executive Employee Relations Committee, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance would amend Chapter 21 of Division 4 of the Los Angeles Administrative Code (LAAC) to modify the conditions for issuing monthly payments to sworn employees participating in the Deferred Retirement Option Plan (DROP). The modifications made by the draft ordinance would implement a negotiated agreement reached between the City and the appropriate labor organizations.

Background on the Deferred Retirement Option Plan

DROP is a voluntary program administered by the Los Angeles Fire and Police Pension plan (LAFPP). DROP provides sworn employees of the Police Department, Fire Department, Harbor Department, and Department of Airports access to a lump sum benefit, payable at retirement, in addition to their monthly retirement allowance. DROP

is intended to be cost neutral and to further the City's goals of retaining and lengthening the careers of these sworn personnel.

Charter Section 1218, adopted by City voters in 2001, authorized the City Council to establish DROP by ordinance and requires the City Council to ensure the program's continued cost neutrality. As authorized by the Charter, the City Council created the DROP program by ordinance; it is codified in Chapter 21 of Division 4 of the LAAC. LAAC Section 4.2100(c) reserves to the City "the right to suspend the right of members to enter the DROP program and to modify the program for future entrants" if the City determines that changes are necessary "to maintain cost neutrality and/or to meet the City's DROP goals." LAAC Section 4.2100(c) also prescribes a meet and confer process for the City and the appropriate labor organizations to negotiate any proposed changes, and further stipulates that agreed-upon changes will affect only employees who have not yet begun participating in DROP.

The modifications made by the draft ordinance are consistent with the requirements of the Charter and existing LAAC provisions, which, as stated above, require DROP to continue to be cost neutral to the City, obligate the City to negotiate changes to DROP with affected labor organizations, and restrict the application of modifications to employees who enter DROP after the date the changes become effective.

#### Summary of Ordinance Provisions

LAAC Section 4.2101(b) currently requires that employees entering DROP on or after November 1, 2008, be on active duty status "on the DROP entry date." The draft ordinance would augment this requirement to ensure that participating employees will only accrue DROP benefits while they are actively serving the City, unless the reason for a participating employee's inactive status was a serious injury sustained on duty. The key substantive amendments made by the draft ordinance are summarized here.

The draft ordinance also amends existing LAAC provisions to require, for employees entering DROP on or after January 1, 2019, the suspension of participation in DROP—and the suspension of the accrual of monthly DROP benefits—in months in which an employee is not on active duty status for at least 112 hours, unless the employee qualifies for a stay of suspension, as described below.

The draft ordinance also adds a new Section 4.2110 to the LAAC, which, in addition to setting forth the suspension of participation provision described above, provides that an employee may qualify to have his or her suspension of participation in DROP stayed for 12 months following the date of a serious injury on duty, as determined by the participant's employing department. The draft ordinance defines a

serious injury as an injury that requires a minimum hospital stay of three consecutive days.

The draft ordinance also would allow an employee whose participation is suspended to extend his or her DROP participation by a maximum of 30 additional months, corresponding to the number of months his or her participation was suspended. The maximum participation period for employees to accrue benefits will remain 60 months in total, and participating employees would not earn interest on DROP accounts once 60 months have elapsed since the member's original DROP entry date.

Finally, the draft ordinance makes technical changes to improve the clarity and consistency of existing language in Chapter 21 of Division 4 of the LAAC.

#### Required Actuarial Statement of Cost Impact

Because this draft ordinance modifies retirement benefits, Government Code Section 7507 requires that an actuary who is an associate or fellow of the Society of Actuaries provide a statement as to the impact of the change on the City's future costs and that the statement be made public at a public meeting at least two weeks prior to the adoption of the ordinance. Charter Section 1218(c) also requires that, as a condition to the final adoption of an ordinance creating or modifying DROP, the City Council be advised in writing by an enrolled actuary as to the cost of any proposed changes. To satisfy these requirements, enrolled actuaries at the Segal Company prepared an actuarial statement that will be presented to the City Council to accompany this draft ordinance.

#### Charter Requirements for Final Adoption and Effective Date

Charter Section 1218(c) requires that an ordinance adopted to establish or amend DROP be subject to the requirements of Charter Section 1618(b). Charter Section 1618(b) requires approval of the proposed ordinance by not less than two-thirds of the membership of the City Council, subject to the veto of the Mayor and override by the City Council by a three-fourths vote. Charter Section 1618(b) further requires that final adoption take place only after a public hearing has been held and at least 30 days following the first presentation of the ordinance. Pursuant to Charter Section 252(i) and Charter Section 1618(b), the ordinance is effective upon publication, but the City Council may provide that the terms of the ordinance, or portions of it, shall be operative at a later date or dates.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Office of the City Administrative Officer and LAFPP, and their respective comments have been incorporated into the draft ordinance.

If you have any questions regarding this matter, please contact Deputy City Attorney Joshua M. Geller at (213) 978-6800. He or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON  
Chief Assistant City Attorney

DM:AF:JMG:pj  
Transmittal