City of FRESNO REPORT TO THE CITY COUNCIL

Agenda Item No.	1 K
Council Meeting	1/26/2012
APPROVED BY	
RETIREMENT ADMINISTRATOR	

January 26, 2012

FROM: CITY OF FRESNO RETIREMENT BOARDS

BY: STANLEY L. MCDIVITT, Retirement Administrator

SUBJECT: ORDINANCE AMENDING SUBSECTION (e) OF SECTIONS 3-353, 3-424 AND 3-566 OF THE FRESNO MUNICIPAL CODE RELATING TO SERVICE CONNECTED DEATHS OCCURRING DURING ACTIVE PARTICIPATION IN THE DEFERRED RETIREMENT OPTION PROGRAM ("DROP") FOR THE CITY OF FRESNO FIRE AND POLICY RETIREMENT SYSTEM AND THE CITY OF FRESNO EMPLOYEES RETIREMENT SYSTEM

RECOMMENDATION

The City of Fresno Retirement Boards are recommending that the City Council consider approving the proposed Ordinance amending the Fresno Municipal Code (FMC) Sections 3-353, 3-424 and 3-566 relating to service connected deaths occurring during active participation in the Deferred Retirement Option Program (DROP) for the City of Fresno Fire and Police Retirement System and the City of Fresno Employees Retirement Systems.

After careful review and consideration, on October 12, 2011, the Boards concluded and adopted the attached proposed amendments to the Municipal Code to provide for a service-connected death benefit applicable to DROP participants who die while in DROP due to a service-connected death. The service-connected benefit would be composed of the survivorship continuance and the DROP account.

Consistent with the Brown Act, the Retirement Boards request an introduction of these ordinances at this City Council meeting, followed by an approval at a subsequent Council meeting.

EXECUTIVE SUMMARY

As part of the Retirement Boards comprehensive review and restructuring of their disability retirement processes and procedures, the Boards of the City of Fresno Fire and Police and Employees Retirement Systems identified a potential situation where an in service death of a member in DROP would be treated differently from an employee not in DROP. Under the existing DROP provisions an active DROP participant who dies while in employment and prior to retirement would be treated as if the death occurred after retirement.

The result of such a characterization is that the participant's survivor would not be eligible to receive the death and tax benefits under section 3-330 for the first tier of the Fire and Police System, 3-408 for the second tier of the Fire and Police Retirement System or 3-537 for the Employees Retirement System.

FISCAL IMPACTS

There is no fiscal impact to the City or Retirement Systems relating to these Code amendments.

Attachments

Ordinances amending sections 3-353(e), 3-424(e) and 3-552(e) of the Fresno Municipal Code.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING SUBSECTION (e) OF SECTIONS 3-353, 3-424, AND 3-566 OF THE FRESNO MUNICIPAL CODE, RELATING TO SERVICE-CONNECTED DEATHS OCCURRING DURING DROP PARTICIPATION FOR THE FIRE AND POLICE RETIREMENT SYSTEM AND THE EMPLOYEES RETIREMENT SYSTEM

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Subsection (e) of Section 3-353 of the Fresno Municipal Code is amended to read:

(e) Additional DROP Provisions.

(1) The effective date of DROP participation for a member shall be the first of the month following the date the Board approves the member's fully completed DROP application.

(2) For a member whose effective date in DROP is prior to the effective date of Ordinance No. 2011-1 and notwithstanding Section 3-319 (Normal Contributions of Members), the member shall cease making contributions to the System. For a member whose effective date of participation in DROP is on or after the effective date of Ordinance No. 2011-1, the member shall continue to make contributions which shall be deposited into the member's DROP account.

(3) If a member becomes disabled while participating in DROP, the member shall be eligible to apply for disability retirement and shall be subject to the same disability eligibility requirements as if the member were not in DROP. Notwithstanding Section 3-336 (Allowance at Disability Retirement), if the Board grants the application, whether for a service-connected or non-service-connected disability, the amount of the disability retirement allowance shall be the same as the amount then being credited monthly to the member's DROP account.

(4) ~~If a member dies while participating in DROP, the member shall be deemed to have died after retirement.~~ [If a member dies due to non service-connected causes while participating in DROP, the member shall be deemed to have died after retirement. If a member dies on or after June 1, 2008 while participating in DROP and the Board determines that the causes are service-connected, the member shall be deemed to have suffered a service-connected death, with the survivorship benefit to be comprised solely of the monthly amount currently being credited into the member's DROP account, adjusted for any optional modification elected by the member, and the balance in the DROP account paid pursuant to Sections 3-353(f) and 3-353(g)(2).]

(5) If a member marries while participating in DROP, the marriage shall be deemed to have occurred prior to the member's retirement only for purposes of satisfying any applicable benefit eligibility requirement.

SECTION 2. Subsection (e) of Section 3-424 of the Fresno Municipal Code is amended to read:

(e) Additional DROP Provisions.

(1) The effective date of DROP participation for a member shall be the first of the month following the date the Board approves the member's fully completed DROP application.

(2) For a member whose effective date in DROP is prior to the effective date of Ordinance No. 2011-1 and notwithstanding Section 3-405 (Normal Contributions of Members), the member shall cease making contributions to the System. For a member whose effective date of participation in DROP is on or after the effective date of Ordinance No. 2011-1, the member shall continue to make contributions which shall be deposited into the member's DROP account.

(3) If a member becomes disabled while participating in DROP, the member shall be eligible to apply for disability retirement and shall be subject to the same disability eligibility requirements as if the member were not in DROP. Notwithstanding Section 3-413 (Allowance at Disability Retirement), if the Board grants the application, whether for a service-connected or nonservice-connected disability, the amount of the disability retirement allowance shall be the same as the amount then being credited monthly to the member's DROP account.

(4) ~~If a member dies while participating in DROP, the member shall be deemed to have died after retirement.~~ [If a member dies due to non

service-connected causes while participating in DROP, the member shall be deemed to have died after retirement. If a member dies on or after June 1, 2008 while participating in DROP and the Board determines that the causes are service-connected, the member shall be deemed to have suffered a service-connected death, with the survivorship benefit to be comprised solely of the monthly amount currently being credited into the member's DROP account, adjusted for any optional modification elected by the member, and the balance in the DROP account paid pursuant to Sections 3-424(f) and 3-424(g)(2).]

(5) If a member marries while participating in DROP, the marriage shall be deemed to have occurred prior to the member's retirement only for purposes of satisfying any applicable benefit eligibility requirement.

SECTION 3. Subsection (e) of Section 3-566 of the Fresno Municipal Code is amended to read:

(e) Additional DROP Provisions.

(1) The effective date of DROP participation for a member shall be the first of the month following the date the Board approves the member's fully completed DROP application.

(2) For a member whose effective date of participation in DROP is prior to the effective date of Ordinance No. 2011-2 and notwithstanding Section 3-523 (Normal Contributions of Members) and Section 3-553(e) (Cost of Living Adjustment), the member shall cease making contributions to the System. For a member whose effective date of participation in DROP is

on or after the effective date of Ordinance No. 2011-2, the member shall continue to make contributions which shall be deposited into the member's DROP account.

(3) If a member becomes disabled while participating in DROP, the member shall be eligible to apply for disability retirement and shall be subject to the same disability eligibility requirements as if the member were not in DROP. Notwithstanding Section 3-547 (Allowance at Disability Retirement), if the Board grants the application, whether for an industrial or non-industrial disability, the amount of the disability retirement allowance shall be the same as the amount then being credited monthly to the member's DROP account.

(4) ~~If a member dies while participating in DROP, the member shall be deemed to have died after retirement.~~ [If a member dies due to non service-connected causes while participating in DROP, the member shall be deemed to have died after retirement. If a member dies on or after June 1, 2008 while participating in DROP and the Board determines that the causes are service-connected, the member shall be deemed to have suffered a service-connected death, with the survivorship benefit to be comprised solely of the monthly amount currently being credited into the member's DROP account, adjusted for any optional modification elected by the member, and the balance in the DROP account paid pursuant to Sections 3-566(f) and 3-566(g)(2).]

(5) If a member marries or establishes a domestic partnership while participating in DROP, the marriage or domestic partnership shall be deemed to have occurred prior to the member's retirement only for purposes of satisfying any applicable benefit eligibility requirement.

SECTION 4. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) **ss.**
CITY OF FRESNO)

I, Yvonne Spence, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2012.

AYES:
NOES:
ABSTAIN:
ABSENT:

Mayor Approval:_____, 2012
Mayor Approval/No Return:_____, 2012
Mayor Veto:_____, 2012
Council Override Vote:_____, 2012

YVONNE SPENCE, CMC
City Clerk

By:_____
Deputy

APPROVED AS TO FORM:

JAMES C. SANCHEZ
City Attorney

By:_____
Senior Deputy

TY:elb:cg [57619elb/ORD] Ord 12-8-11; revised 1.6.12