

OP 95-5-02

BACKWARD DEFERRED RETIREMENT OPTION PLAN (Back DROP)

A. PURPOSE

The purpose of this Operational Policy is to provide a coordinated and fully documented process for members applying for a retirement pension to enter the Backward Deferred Retirement Option Plan (Back DROP) of the Fire and Police Pension Plan, San Antonio. In addition, this Operational Policy procedure is intended to provide those associated with the process (the Fire and Police Departments of the City of San Antonio, Fund members, the Fund's Board of Trustees ["Board"] and the Fund's Administrative Staff) with a detailed outline of the steps, time frames, and rules regarding Back DROP and the processing of retirement applications for participation in the Back DROP.

B. PROCEDURE

- I. A member who desires information concerning retirement with the Back DROP election but is not yet prepared to participate in said election may:
 - A. request a non-binding verbal estimate of the amount of his or her lump sum payment benefits; and/or
 - B. schedule an appointment with the Fund's administrative office to discuss the Back DROP option, during which appointment is a non-binding estimate of the amount of his or her lump sum payment can be made.
- II. A member of the Pension Fund who desires to apply for a retirement pension and participate in the Back DROP election must schedule an appointment to meet with the Fund's administrative office ("Appointment").
- III. THE APPOINTMENT MUST BE SCHEDULED PRIOR TO A MEMBER'S INTENDED EFFECTIVE DATE OF RETIREMENT.
- IV. Attendance at the Appointment is a condition of being eligible to elect the Back DROP lump sum payment.
- V. The Appointment must be scheduled during the normal business hours of the Fund which are currently set at 7:45 a.m. to 4:30 p.m., Monday through Friday.
- VI. In order to timely process the Retirement Pension Application with the Back DROP Election, the Appointment should be scheduled not later than thirty (30) calendar days prior to the Member's intended effective date of the Back DROP election date.
- VII. No Appointment will be scheduled later than two (2) business days prior to the member's intended effective date of the Back DROP option, which is the retirement effective date. In the event the member's intended effective date of the Back DROP option falls on a weekend, the Appointment cannot be made later than the preceding Wednesday of that business week.

- VIII. If time permits prior to the interview, the Fund Staff will mail to the member all forms necessary for the application for a retirement pension and election of the Back DROP option.
- IX. A member must bring the following items to the Appointment:
- A. if married, a copy of his/her marriage certificate
 - B. a copy of the birth certificate for any dependent child; and
 - C. the social security numbers for any dependent child.
- X. During the Appointment, the Fund's administrative staff will:
- A. inform the member of the contents of (1) this policy and procedure, (b) the process for applying for a retirement pension, (c) the Back DROP election form (Election Form) or the Back DROP waiver form (Waiver Form) and (d) the beneficiary election form (Beneficiary Form);
 - B. respond to any questions to the member may have concerning the contents of this policy and procedure, Section 5.015 of Article 6243o, Vernon's Texas Civil Statutes (Fund Law), the Retirement Pension Application form, the Back DROP Election form, the Distribution form and the Beneficiary form;
 - C. accept the Application should the member choose to elect the Back DROP Option.
- XI. A member who elects the Back Drop Option must sign the Back DROP Election form, initialing every page, and must verify in writing that he or she:
- A. understands the terms and conditions of the Back DROP Option, as expressed in this policy and procedure and as set forth in Section 5.015 of the Fund Law
 - B. in making the election to participate in the Back DROP has relied entirely on this policy and procedure and Section 5.015 of the Fund Law;
 - C. has had the opportunity to consult a tax advisor.
- XII. The Fund's Staff will review the Back DROP Election form, the Retirement Pension Application form, and all other ancillary forms in order to determine whether they were properly and completely filled out.
- XIII. Upon full completion , the Retirement Pension Application will be placed on the agenda for the next Board meeting for approval. If approved, said approval shall be effective on the date set for retirement.
- XIV. Within a reasonable period of time after the Board's approval of the member's retirement pension with Back DROP election, the Fund Staff shall:
- A. notify the member of the Board's approval of his or her application for a retirement pension with Back DROP election;

- B. notify the appropriate Department of the City of San Antonio of the Board's approval of the member's application for retirement pension with a Back DROP election, and
 - C. make all necessary arrangements for the payment of the retirement pension and the Back DROP lump sum payment.
- XV. The Fund's Staff will provide Back DROP projections to members of their own benefits upon written request, with priority being given (a) to currently eligible members first, (b) to members who will be eligible within one year, next and finally (c) to the rest of the membership.
- XVI. A member who makes a Back DROP election must execute a Beneficiary form for the payment of the Back DROP lump sum payment should the member die after retirement but before payment of the lump sum is made. The Fund Staff will provide the beneficiary form to be filled out. The effect of the Beneficiary form is to ensure that the member's designated person receives the lump sum payment should the member die before payment is made.
- XVII. During the appointment, the member must be prepared to execute the following forms:
- A. Federal income tax withholding,
 - B. application for direct deposit of retirement pension and the Back DROP Lump Sum Payment.
- XVIII. The member must bring the following to the appointment:
- A. A copy of any and all divorce decrees wherein the court would attempt to bind or direct the Pension Fund to take specified actions.
 - B. A copy of any and all marriage certificates if ever married or re-married.
 - C. If these are not provided, the member will execute a Release of Liability form which releases the Pension Fund from any and all liability for actions arising from the Divorce Decree(s). The member agrees to hold the Fund harmless for costs incurred in defending any said action.
- XIX. It is the Policy of the Pension Fund to respond to inquiries of former spouses regarding a member's actual or anticipated retirement date, if this member provides a waiver which permits the sharing of this information. The Fund Staff will obtain a Waiver to provide the member. Further, Staff will, if authorized by member, provide the former spouse the above information.

C. GENERAL RULES

- I. The Board shall implement Section 5.015, Back DROP, in a manner that preserves the eligibility of the tax qualification status under the Internal Revenue Code of 1986 and may revise the program as necessary to retain tax qualification.
- II. In order to be able to participate in the Back DROP option, a member must, as of the member's intended retirement date, have at least 20 years and one month of active membership in the Fund.

- III. The member can elect, pursuant to Article 6243o, to receive the lump sum payment with a reduced annuity, and to have the lump sum payment deferred for a period of up to one year.
- IV. The member's election to receive a lump sum payment is irrevocable.
- V. The effective date of the member's election for the Back DROP option is the retirement date, but the payment may be deferred for a period not to exceed one year.
- VI. At the time the member elects the Back DROP option, the member must also elect whether he wants the lump sum payment deferred.
- VII. If the member wants payment deferred, the member must identify in writing at this time of the Back DROP election the date the member wants payment made, not later than one year from the date of retirement.
- VIII. If a member defers distribution of the lump sum payment, the Fund will **not** pay any interest on the deferred amount at the time of the distribution.
- IX. If federal tax laws are amended to permit its establishment, and Excess Benefit Plan will be created in accordance with Section 5.11 Coordination with Federal Law, Article 6243o, Vernon's Texas Civil Statutes. The purpose of the Excess Benefit Plan is to pay benefits above the limitations on distributions of retirement benefits established pursuant to the Internal Revenue Code of 1986.
- X. Because of the complexity of determining the actuarial costs of the Back DROP option, participation in Back DROP will be available from October 1, 1995 to September 30, 1999. However before January 1, 1999 date, the Board and the Fund will study the actuarial cost of the Back DROP option on the fund. The Board has the authority to terminate the Back DROP option should the cost of its continuation be too high. If the Back DROP option is terminated, no additional members will be allowed to participate in the program.

D. BACKDROP DISTRIBUTIONS

- I. A Back DROP distribution will not be paid (or otherwise distributed) to a member until the effective date of the Board's granting of a retirement pension.
- II. A Back DROP distribution will **not** be paid to a designated beneficiary of a Back DROP Lump Sum Payment until the effective date of Board approval of such payment. The board will not approve the payment of a Back DROP lump sum payment to a designated beneficiary until such time the Fund receives sufficient documentation of the member's death.
- III. To the extent permissible under Federal laws and consistent with language of Article 6243o, the Pension Fund Law, payment can be made as a lump sum distribution of the amount calculated by the Fund Staff.

E. DESIGNATION OF BENEFICIARIES

- I. A member who elects the Back DROP option may designate a beneficiary and a contingent beneficiary of the member's Back DROP lump sum payment should the member die before payment is made.
- II. The Fund Staff will provide the beneficiary form.
- III. In the event the member who elected the lump sum payment fails to designate a beneficiary, and the member subsequently dies before payment is made, his or her spouse, or if none, the estate will receive the lump sum payment.
- IV. A member may designate a beneficiary other than his spouse to receive the lump sum payment, however the spouse must consent to such designation which must be witnessed by a notary public.
- V. A member who elects the lump sum payment and declares a beneficiary can revoke his or her beneficiary designation at any time prior to payment. However if the designated beneficiary is anyone other than his spouse, such spouse must sign a notarized consent form to the distribution of the lump sum payment to the designated beneficiary.
- VI. A member's lump sum payment is subject to the community property laws of the state of Texas, and is therefore subject to division by a court of law. The Fund will not accept qualified domestic relations orders but will cooperate with the members and attorneys to effect the objective of the parties within the constraints of the law.

AP 95-5-02 BACK DROP IMPLEMENTATION

WHEREAS, effective October 1, 1995, Article 6243o of Vernon's Texas Civil Statutes, is amended to provide an option to elect a lump sum benefit to certain individuals in return for said individuals receiving a reduced annuity; and

WHEREAS, the election of said Back DROP option has the potential for adversely impacting, from a tax perspective, the individual who makes said election, with greater adverse results being imposed on individuals retiring before the age of 55; and

WHEREAS, the election of said option may have the effect of diminishing the amount that a former spouse might otherwise be entitled to, and increases the potential of litigation involving the Fund if there is actual or constructive notice of a prior divorce or a current divorce action if the election takes place and the amount that the former spouse might be entitled to is reduced without her knowledge of the election; and

WHEREAS, the Board of the Fire and Police Pension Fund is charged with acting in the best interests of the Plan Participants and their beneficiaries;

NOW, THEREFORE, BE IT RESOLVED BY THE FIRE AND POLICE PENSION FUND, THAT:

- I. Fund Staff will immediately move to obtain the necessary software that integrates the data for these calculations so as to be readily retrievable.
- II. Fund Staff will provide, when requested by retirement eligible plan participants, information relative to the Back DROP election, including all information relative to projections to realistic retirement dates, and to realistic periods selected for Back DROP calculations.
- III. The Fund will not be responsible for providing tax advice, nor will it provide said advice beyond aspects within the realm of the Fund, such as Section 415 of the Internal Revenue Code calculations as they impact the annuity benefit of the plan participant. While the Fund is not the employer and does not have the benefits of the participant's records that the employer enjoys, the Fund will cooperate extensively with the City in order to ensure that the plan participant has all the information necessary to make a judicious decision.
- IV. Consistent with the requirements of the Fund imposed by the Internal Revenue Code, the Fund will provide all notice that the IRC requires be given to Plan members in those cases where there are distributions made from the Plan.
- V. The Fund will prepare an Acknowledgment form consistent with this policy to be signed by the person electing the Back DROP lump sum payment. The acknowledgment of the individual will address:
 - A. That the individual recognizes and understands that the lump sum payment received offsets a part of the annuity that he would otherwise receive, barring exceptional circumstances;
 - B. That the individual has been advised to seek professional advice relative to potential tax impacts to the individual outside the realm of the Pension Fund;
 - C. That the individual voluntarily elects the lump sum payment with a reduced annuity;
 - D. That the individual has disclosed to the Fund any information regarding previous marriages, and that the individual certifies that there are or are not any spousal interests which would preclude the individual from making an election without considering the spousal interests, and that if there are misrepresentations, that the individual will hold the Fund harmless for any costs incurred by the Fund. Further, if there are identified spousal interests which would be infringed by the taking of a lump sum payment, the implementation of the election will be delayed until such time as the issues are resolved.
- VI. The fund will maintain said Acknowledgment form in the Personnel folder of the participant.

APPROVED ON THE 28TH DAY OF JULY, 1995