

**CITY OF HOLLYWOOD
EMPLOYEES' RETIREMENT FUND**

CALENDAR OF ITEMS

REGULAR BOARD MEETING

FEBRUARY 12, 2025

AGENDA ITEM 1

CALL TO ORDER

(NO BACKUP FOR THIS SECTION)

AGENDA ITEM 2
ROLL CALL
PLEDGE OF ALLEGIANCE

AGENDA ITEM 2.A.

AGENDA ADOPTION



CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND

2450 Hollywood Blvd. • Suite 204 • Hollywood, FL 33020
(954) 921-3333 • (954) 921-3332 Fax • www.hollywoodpension.com

AGENDA SPECIAL PENSION BOARD MEETING WEDNESDAY, FEBRUARY 12, 2025 at 2:00 PM PENSION OFFICE, ROOM 209, 2450 HOLLYWOOD BOULEVARD

- 1. CALL TO ORDER**
- 2. ROLL CALL AND PLEDGE OF ALLEGIANCE**
 - A. Agenda Adoption
- 3. LEGAL (Ron Cohen – Lorium Law)**
 - A. Proposed Language for In-Service DROP Account Distribution
- 4. PUBLIC COMMENTS**
- 5. TRUSTEE REPORTS, QUESTIONS AND COMMENTS**
- 6. ADJOURNMENT**

PERSONS WITH DISABILITIES WHO REQUIRE REASONABLE ACCOMMODATION TO PARTICIPATE IN AN EMPLOYEES' RETIREMENT FUND BOARD MEETING MAY CALL THE PENSION OFFICE FIVE (5) BUSINESS DAYS IN ADVANCE AT 954-921-3333 (VOICE). IF AN INDIVIDUAL IS HEARING OR SPEECH IMPAIRED, PLEASE CALL 800-955-8771 (V-TDD). *ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THE BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSES MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS MADE.* *THIS MEETING MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATION MEDIA TECHNOLOGY, THE TYPE BEING A SPEAKER TELEPHONE.* *IN COMPLIANCE OF STATE LAW, THE BOARD OF TRUSTEES FINDS THAT A PROPER AND LEGITIMATE PURPOSE IS SERVED WHEN MEMBERS OF THE PUBLIC HAVE BEEN GIVEN A REASONABLE OPPORTUNITY TO BE HEARD ON A MATTER BEFORE THE BOARD. THEREFORE, THE BOARD OF TRUSTEES HAVE DETERMINED AND DECLARED THAT THEY WILL ALLOW THE PUBLIC TO COMMENT; HOWEVER, EACH PERSON IS LIMITED TO NO MORE THAN (3) THREE MINUTES TO COMMENT AT EACH MEETING.* *TWO OF MORE MEMBERS OF ANY OTHER CITY BOARD, COMMISSION, OR COMMITTEE, WHO ARE NOT MEMBERS OF THE EMPLOYEES' RETIREMENT FUND BOARD MAY ATTEND THIS MEETING AND MAY, AT THAT TIME, DISCUSS MATTERS ON WHICH FORESEEABLE ACTION MAY LATER BE TAKEN BY THEIR BOARD, COMMISSION, OR COMMITTEE.*

AGENDA ITEM 3.A.

LEGAL

PROPOSED LANGUAGE FOR IN-SERVICE DROP ACCOUNT DISTRIBUTION

CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND

SPECIAL MEETING – February 12, 2025

BACKGROUND AND EXPLANATION OF PROPOSED CHANGES TO THE CITY ORDINANCE AND COLLECTIVE BARGAINING AGREEMENTS

Recently, the Board of Trustees of the City of Hollywood Employees Retirement Fund (COHERF) held a hearing where a member wanted to access his DROP money and keep working for the City. This is prohibited by the Plan Ordinance. As a result, the Board, including its management representatives, are aware that this situation causes certain persons to leave City employment before they and the City would otherwise have wanted, solely so that they can access their DROP money. It is believed that if they were allowed to access their DROP money while remaining employed, it would help the City retain valuable, skilled, experienced employees. The Board identified that some members are further prohibited from remaining employed by the Collective Bargaining Agreements.

Generally, the IRS Code, by which the Plan is bound, requires retirement payments to be paid after retirement. The IRS has ruled that retirement means after a person has separated from service, without a prearrangement to return to service. There is an important exception, which permits a distribution to be made to someone without a separation of employment - called an "in-service distribution"- if the plan allows it and the person has attained either normal retirement age or age 59½.

This Plan does not allow in-service DROP distributions. In other words, at the conclusion of their DROP, individuals cannot receive their DROP monies until they actually have a separation of service. This creates a situation where individuals are otherwise allowed by the tax laws to access their DROP monies by taking in-service distributions, but this Plan prohibits it. These DROP monies are held by the Plan for the participants and do not earn any interest for the participant after their DROP concludes. Additionally, the Plan's actuary has determined that there would be no actuarial cost to implement these in-service distribution recommendations.

Even though the Plan can permit distributions at normal retirement age, if the person takes a distribution before attaining age 59½, there may be tax consequences.

In order to allow all persons who have attained normal retirement age or age 59½ to access their DROP monies at the conclusion of their maximum DROP period, while they remain employed, two actions are required:

1. The City Ordinance governing COHERF has to be amended to allow in-service distributions to all participants in the Deferred Optional Retirement Plan (DROP) at the conclusion of their maximum DROP period who have attained normal retirement age or age 59½. Enclosed is language for a proposed ordinance.
2. Because the CBAs with the AFSCME units requires that members of the AFSCME bargaining units sign an irrevocable letter of resignation effective no later than the date their DROP

You have asked whether the Plan can permit a participant who is not yet age 59 ½ to do a rollover of an in-service DROP distribution. The Plan can be amended to permit a participant to receive an in-service distribution if they have reached normal retirement age, or if they have reached age 59 ½ (regardless of whether or not they have reached normal retirement age under the plan).

Briefly, an-in-service distribution at normal retirement age is specifically permitted by Treasury Regulation 1.401(a)-1, which provides in part as follows:

b) Requirements for pension plans.

(1) Definitely determinable benefits.

(i) In order for a pension plan to be a qualified plan under section 401(a), the plan must be established and maintained by an employer primarily to provide systematically for the payment of definitely determinable benefits to its employees over a period of years, usually for life, **after retirement or attainment of normal retirement age (subject to paragraph (b)(2) of this section).** A plan does not fail to satisfy this paragraph (b)(1)(i) merely because the plan provides, in accordance with section 401(a)(36), that a distribution may be made from the plan to an employee who has attained age 62 and who is not separated from employment at the time of such distribution.

The age 62 limitation has now been changed to age 59 ½ by Code Section 401(a)(36). For a governmental plan, the IRS Regulations provide that the normal retirement age is "generally the lowest age specified in the plan at which the employee has the right to retire without the consent of the employer and receive retirement benefits based on the amount of the employee's service to the date of retirement at the full rate set forth in the plan." *Applicability of Normal Retirement Age Regulations to Governmental Pension Plans, ("Proposed Rules") 81 FR 4599.* The IRS has issued Proposed Regulations, which are still in effect, which contain certain safe-harbor requirements for determining what is a valid normal retirement age. This means that if a plan has the following normal retirement age, the ages are valid under the IRS Code and Regulations. These include:

- The later of age 60 or any age with 5 years of service;
- The later of age 55 or any age with 10 years of service;
- Combined age and years of service of 80 or more;
- Any age with 25 years of service, if combined with one of the above safe-harbor ages

The normal retirement ages in our Plan for those eligible to enter the DROP would not appear to cause any concern at this time under the Proposed Regulations. Thus, I believe that the Plan can permit in-service distributions to those people who are not yet 59 ½ but have reached normal retirement age. Normal retirement age is a requirement to enter DROP.

Up to now, we have been discussing issues concerning the tax qualification of the Plan, not the taxation of the distribution to the member. Of course, an eligible rollover distribution is not taxable at the time of the rollover, so long as it is directly rolled over, and the Plan is required to permit the recipient of an eligible rollover distribution to make a direct rollover. However, the Plan cannot restrict a participant's right to a distribution by requiring a direct rollover if the participant is under age 59 ½. Thus, if the Plan is amended to allow in-service distributions at normal retirement age (regardless of whether the member is at least 59½), a participant cannot be required to do an eligible rollover distribution if the individual is under age 59 ½--regardless of the participant's age, the participant must have the ability to either receive the distribution directly (a taxable event with a potential for an additional 10% tax if under 59½) or to do a direct rollover (which defers taxation of the distribution).

CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND

SPECIAL MEETING – FEBRUARY 12, 2025

LANGUAGE FOR PROPOSED CHANGES TO THE CITY ORDINANCE SECTIONS §33.025(H)(8) AND §33.025(H)(11)

H (8) DROP payments shall earn interest at a rate set by the Board of Trustees, through the date of termination of the member's participation in the DROP. Notwithstanding the preceding sentence, effective July 1, 2006 for members included in the AFSCME General bargaining unit, May 1, 2007 for members included in the AFSCME Professional and Supervisory units, and July 1, 2007 for members not included in any bargaining unit, DROP payments shall earn interest at the same rate as the net market rate of return on plan assets. For purposes of this division (H), NET MARKET RATE OF RETURN means the rate of return on a market value basis net of investment related expenses for each year ending September 30; however, in no event shall DROP payments earn interest at a rate of less than 0%. Upon ~~termination~~the conclusion of a member's participation in the DROP ~~and separation from city employment~~, a permissible distribution of the DROP account balance credited to the member, the DROP account balance shall be distributed to the member under one or a combination of the following options selected by the member in accordance with procedures established by the Board:

(a) A single lump sum payment equal to the balance in the member's DROP account as of the date of termination from the DROP plan; or

(b) A direct rollover to a qualified plan or a direct trustee to trustee transfer to an eligible plan.

H (11) A DROP participant may terminate DROP participation and resign from city employment prior to the end of the maximum DROP period and receive a distribution of his/her DROP account balance. Upon termination of DROP participation ~~and separation from city employment,~~ at the conclusion of the maximum DROP participation period, a DROP Participant who has attained normal retirement age or age 59½ or older, regardless of whether the participant separates from city employment, a member shall may choose to receive a distribution of his/her DROP account balance in accordance with division (H)(8) above, ~~and regular monthly service retirement benefit payments shall thereafter commence.~~ If a DROP participant does not separate from city employment at the end of the maximum DROP period and does not choose to receive a distribution of his/her DROP account balance, the DROP account will not be credited with additional interest. Regardless of age, ~~and~~ the member's monthly retirement benefit will not be paid until the member separates from city employment following participation in the DROP.

AGENDA ITEM 4

PUBLIC COMMENT

(NO BACKUP FOR THIS SECTION)

AGENDA ITEM 5
TRUSTEE REPORTS, QUESTIONS AND
COMMENTS
(NO BACKUP FOR THIS SECTION)

AGENDA ITEM 6

ADJOURNMENT

(NO BACKUP FOR THIS SECTION)