

ORDINANCE NO. 179813

An ordinance amending Chapter 22 of Division 4 of the Los Angeles Administrative Code to establish a Public Service Purchase Program for members of the Fire and Police Pension Plan.

Section 1. A new Section 4.2212 is added to Chapter 22 of Division 4 of the Los Angeles Administrative Code to read:

Sec. 4.2212. Public Service Purchase (PSP) Program.

(a) Definitions. For the purposes of this section, the following words and phrases shall have the meaning ascribed to them in this subsection unless a different meaning is clearly indicated by the context:

“Board” means the Board of Fire and Police Pension Commissioners.

“DROP” refers to the Deferred Retirement Option Plan (DROP) established in Chapter 21 of Division 4 of the Los Angeles Administrative Code.

“Public Service Purchase (PSP) Program” means the voluntary program that allows members to purchase service with the Fire and Police Pension Plan (Plan) on the terms and conditions established in this section.

“Purchased Service” means service purchased under the PSP program. Purchased service shall be treated as “years of service,” as that term is defined in the various tiers of the Plan, for the purpose of computing the amount of a member’s service pension and any survivorship pensions based on that pension.

“Public Entity” means the United States Government including its territories, any agency of the United States Government, the United States Postal Service, and any branch of the United States military service; any State or their political subdivisions; any local government or special district within any State of the United States; and shall exclude non-governmental agencies supported by government contracts or grants.

“Member” means a Department Member entitled to benefits from the Plan under Tier 2, 3, 4, or 5.

“Designated PSP Beneficiary” means a person whom the member, in a writing filed with the Plan, designates to be paid part or all of the member’s PSP payments, including interest, that are refundable in the event of the member’s death. If the member designates more than one person as a beneficiary, the refund shall be divided evenly between all beneficiaries unless the member provides otherwise.

“Full-time Service” means a minimum of six months of uninterrupted service with an eligible public entity, excluding part-time service.

“Prior Plan” means a retirement plan of a public entity in which the member was a participant during full-time service.

“Pension Base” means the Normal Pension Base for Tier 2 members and Final Average Salary for members of Tiers 3, 4, and 5.

“Full Actuarial Cost” means the cost to be paid for purchased service in order to achieve cost neutrality to the Plan as determined by the Board’s actuary.

“Specified Date that Benefits Will First Become Payable” means the date that the member expects either to retire on a service pension or to enter DROP and shall be specified by the member at the time service is purchased.

“Advance Purchase” means a purchase of service made in advance by a member, based upon the member’s estimated pension base and the specified date that benefits will first become payable, for which a true up calculation is required. Purchases made within 180 days of the date a member actually retires on a service pension or enters DROP are not advance purchases requiring a true up, provided that the member actually retires or enters DROP on the specified date and that there is no change in either the member’s known eligible survivors or the member’s pension base during those 180 days.

“True Up” means the requirement that the full actuarial cost for the purchased service shall be recalculated as of the date that benefits first become payable when (1) a member has made an advance purchase, (2) the retirement or DROP entry date differs from the date specified when the purchase was made, (3) there is a change in the member’s known eligible survivors or (4) the member’s actual pension base differs from the estimated pension base. The purpose of a true up is to assure that the member pays the full actuarial cost so that the PSP program will be cost neutral to the Plan. The actuarial assumptions used in the true up shall be those in effect at the time the purchase was initially made.

“Pension Base Adjustment” means the requirement that, when the member’s pension base changes after a purchase is finalized, the years of service purchased shall be adjusted so that the amount of the monthly benefit purchased remains unchanged. This adjustment shall be made regardless of whether the member’s pension base changes prior to or after the member’s retirement or DROP entry date and shall be retroactive to the date that benefits first became payable.

(b) Participation in the Program. Service purchases under the PSP program must be initiated and finalized prior to the date a member enters DROP or retires, whichever occurs first. Members cannot purchase service after entering DROP, retiring, or being recalled or reactivated. The Board may limit or prohibit member participation in the PSP program to the extent required to comply with any federal law.

(c) Cost Neutrality. The member shall be required to pay the full actuarial cost of the purchased service as determined by the Plan's actuary based upon the additional benefits available from the Plan as a result of the purchased service without taking into consideration incidental administrative expenses incurred by the Plan.

In determining the purchase cost, the actuary shall determine the full actuarial cost utilizing the actuarial assumptions in effect for the PSP program at the time of purchase and taking into consideration the additional benefits that may be provided by the Plan as a result of the purchased service. Factors to be considered by the actuary shall include, as applicable: the member's age; the date benefits will first become payable (the specified date or the actual date); the number of known eligible survivors; the ages of any known eligible survivors; the member's pension base (estimated or actual); the investment earnings rate that is assumed to accrue to the Plan on the member's PSP payments; and any other factors that are relevant to cost neutrality. For all PSP program purposes, the date a member enters DROP shall be considered the date that benefits first become payable, notwithstanding that no benefits are actually paid to the member until he or she terminates employment and exits DROP.

A member's cost for the purchase of service may differ from the amount determined in advance if a true up is required. A purchase is finalized when the member has paid the full cost for the service purchased, including any adjustment in cost or service required as a result of a true up. In the event that the member's pension base changes after the member's purchase has been finalized, a pension base adjustment shall be made by adjusting the years of service, retroactive to the date that benefits first became payable, so that the amount of the monthly benefit purchased remains unchanged.

The City Administrative Officer shall conduct periodic reviews of the program every five years to ensure that the program is cost neutral to the City. Cost neutrality shall be determined with regard to the additional benefits provided by the Plan as a result of purchased service, without taking into consideration any incidental administrative expenses incurred by the Plan.

(d) Service Eligible for Purchase. A member may purchase service under the PSP program with any public entity subject to the following limitations:

- (1) Only full-time service may be purchased.
- (2) No more than a total of four years of service may be purchased.
- (3) Service with a branch of the United States military service may be purchased only if the member was honorably discharged.
- (4) Service with any bona fide police agency or fire suppression agency may be purchased only if the member was not terminated for cause.

(5) Service for which the member is eligible, or may become eligible, to receive a retirement benefit from another entity may not be purchased unless federal law requires otherwise. This prohibition shall not apply when a member ceases to be eligible for benefits from a prior plan due to a withdrawal of the member's funds or a waiver of benefits.

(6) Service may not be purchased if the benefits payable as a result of this additional service purchase would cause the member's benefits to exceed the Internal Revenue Code Section 415(b)(1)(A) limits at the time of retirement and result in benefits being paid to the member from the Excess Benefit Plan, rather than the Plan.

In the event that purchased service is determined to be ineligible for purchase (due to a violation of one or more of these limitations) prior to the date that the member terminates employment, the purchase of the ineligible service shall be rescinded and the member shall be refunded the payments attributable to the purchase of this ineligible service, with interest, payable upon the earlier of the member's death or termination of employment. A purchase of service may not be rescinded after service pension benefits have actually been paid to the member, but may be rescinded during the period that the member is in DROP, with an appropriate adjustment in the amount of the payments made into the member's DROP account retroactive to the date of entry into DROP.

(e) Restrictions Applicable to Purchased Service. Purchased service shall be included in a member's years of service only for the purpose of calculating the amount of the member's service pension and any survivorship benefits based upon the member's service pension entitlement, provided that the total years of service used to calculate a member's service pension shall never exceed thirty years for Tiers 2, 3, and 4 or thirty-three years for Tier 5. However, should a member who purchased service and either entered DROP or retired on a service pension subsequently be retired on a disability pension, unless the service purchase has been revoked as provided in Subsection (g)(5), the purchased service shall be included in the member's years of service to the extent applicable for purposes of computing the minimum disability pension payable based upon the member's service and any survivorship benefits payable in the event of the member's death. Purchased service shall not count as service for purposes of the contribution provisions of any of the tiers and does not excuse a member from making the contributions required by the member's tier. Purchased service shall not count as years of service for purposes of any of the benefits provided in Chapter 11.5 of Division 4 of the Los Angeles Administrative Code. Purchased service shall not count to establish eligibility for service or disability retirement or eligibility to enter DROP.

(f) Methods of Purchasing Service. A member may enter into a written agreement with the Plan to purchase service by a lump sum payment or on an installment basis through payroll deductions or by both.

Lump sum payments may be paid in cash or by a direct rollover from the City's Deferred Compensation Plan or by a combination of these methods.

Installment payments shall be made by payroll deduction on a post-tax basis pursuant to the terms of the member's written agreement with the Plan. An installment payment agreement may be initiated or ended by a lump sum payment. While a member may terminate a payroll deduction agreement at any time and cease to make further payments, a member shall not be allowed to enter into another written agreement to purchase any service covered by the terminated agreement. If a payroll deduction agreement is terminated then, at retirement or entry into DROP, whichever occurs first, the member may elect to receive pro-rated service based on the payments already made or to revoke all of the purchase and receive a refund as provided in Subsection (g)(6).

At the time a member is provided with a cost estimate for the purchase of service, the member shall be advised of the interest rate that will accrue on any unpaid balance if not paid in full by a specified date. The interest rate that a member shall be charged on the unpaid balance of any purchase agreement shall be the same rate as the investment earning rate assumption applicable to advance purchase payments at that time.

All advance purchases are subject to being trued up at the time benefits first become payable. If the member's trued up cost is less than the amount that the member has paid, including assumed investment earnings, the difference may be refunded to the member or used to purchase additional eligible service. If the member's trued up cost exceeds the amount that the member has paid, including assumed investment earnings, the member may make a lump sum payment prior to retirement to complete the service purchase or receive pro-rated service based on the amount already paid. In addition, when a true up is required, a member may always elect to revoke all of the purchase and receive a refund as provided in Subsection (g)(6).

A member may only enter into one written agreement to purchase a specific period of service. Once a member has paid to purchase service, these payments may not be refunded except as provided above or in Subsections (d) and (g). A member shall not be paid a refund until the member terminates employment.

(g) Refund of Payments. A member's payments to purchase service shall be refunded only as provided in Subsections (d) and (f) above or as provided below:

(1) In the event a member terminates employment other than by retiring on a service pension, all payments made by the member under the PSP program, including interest, shall be refunded to the former member upon request and the purchase agreement shall be revoked. A former member who becomes eligible for a deferred service retirement may elect, instead of taking a refund, to retain credit for that portion of the service purchased by the amount already paid, based upon a true up of the cost. In the event the former member

dies prior to electing either a refund or a deferred service retirement including purchased service, all payments made under the PSP program, including interest, shall be refunded to the former member's designated PSP beneficiary or, if none, to the former member's estate.

(2) If a member dies prior to entering DROP or, if not in DROP, prior to retiring, and leaves no eligible surviving spouse or domestic partner, all payments made by the member under the PSP program, including interest, shall be refunded to the member's designated PSP beneficiary or, if none, to the member's estate and the purchase agreement shall be revoked.

(3) If a member dies prior to entering DROP or, if not in DROP, prior to retiring, and leaves an eligible surviving spouse or domestic partner, all payments made by the member under the PSP program, including interest, shall be refunded to the member's designated PSP beneficiary or, if none, to the member's spouse or domestic partner and the purchase agreement shall be revoked, provided that the eligible surviving spouse or domestic partner may elect to retain part or all of the purchased service, in which case the full actuarial cost shall be trued up based on the benefits that will be provided to the survivor and only that portion of the payments and interest exceeding the trued up cost for the retained purchased service shall be refunded as set forth above.

(4) Should a member, as a result of purchased service, accrue more than thirty years of service (for Tiers 2, 3 and 4) or thirty-three years of service (for Tier 5) for service pension calculation purposes, upon termination of employment the member shall be refunded the amount that was paid to purchase this excess service, including interest.

(5) Provided a member has not retired on a service pension prior to being approved for a disability pension, the service purchase agreement shall be revoked and the member refunded all payments, including interest, when the member terminates employment by retiring on a disability pension. However, if a member forfeits his or her DROP account in order to receive a disability pension, the member may elect to retain the service purchased under the PSP program instead of receiving a refund. There is no right to revoke the service purchase agreement and receive a refund if the member retired on a service pension prior to being granted a disability pension.

(6) When a member's full actuarial cost for an advance purchase is trued up at the time that benefits first become payable, the member may elect to revoke the purchase and receive a refund of all payments, including interest, upon termination of employment.

Unless a refund is authorized as provided in this subsection or Subsections (d) or (f), payments made to purchase service shall not be refunded. To the extent that a refund is authorized and made, the service purchase shall be revoked accordingly.

After a member enters DROP, no portion of the purchase price shall be refunded unless the member qualifies for a refund under Paragraph (5) of this subsection or under Subsection (d) related to the purchase of ineligible service. After a member retires on a service pension, none of the purchase price shall ever be refunded.

(h) The City May Modify or Terminate the Program. The City Council may review the costs and usefulness of the PSP program for recruitment and retention purposes. The City Council may modify or terminate the program in the manner authorized by Charter Section 1234. In the event the program is modified or terminated, agreements to purchase service that were entered into prior to the program's modification or termination shall continue to be honored as provided in Charter Section 1234.

(i) Board Administration of the Program. The Board shall administer the PSP program and adopt all rules necessary to implement the program. The Board shall periodically review and approve the assumptions, including the investment earning rate assumptions applicable to advance purchase payments, and the methodology to be used by the Board's actuary to determine the full actuarial cost for this benefit that will be charged to the members. The Board shall establish the amount of interest and the manner in which this interest is credited on PSP payments for refund purposes, provided that the amount of interest shall not exceed that paid on normal contributions to the Plan. The Board shall account for all PSP payments and for the additional benefits paid as a result of PSP purchases in a manner that will allow the Board to periodically review the program to ensure that the program is cost neutral. The Board shall determine any factual questions arising in connection with the program's operation after investigation or hearing as the Board deems appropriate. The Board's decision shall be conclusive and binding on all parties concerned.

(j) DROP Window. Notwithstanding the provisions of Subsection (b), a member who enters DROP during the period of January 1, 2008 through May 1, 2008, may initiate service purchases under the PSP program no later than August 1, 2008, but these purchases must be finalized no later than August 1, 2009. A purchase of service under this subsection may not be initiated or finalized after a member exits DROP. The member must be in DROP at the time that the service purchase is initiated and finalized.

Sec. 2. This ordinance becomes effective upon publication pursuant to Charter Section 252.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than two-thirds** of all of its members, at its meeting of APR 08 2008.

KAREN E. KALFAYAN, City Clerk

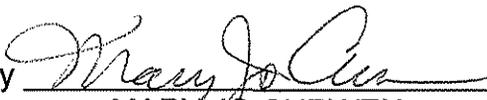
By  Deputy

Approved APR 18 2008

 Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By 
MARY JO CURWEN
Deputy City Attorney

Date Feb. 19, 2008

File No. 07-1100-55