



Legislation Details (With Text)

**File #:** ID 24-486      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Agenda Ready  
**File created:** 4/2/2024      **In control:** City Council  
**On agenda:** 4/18/2024      **Final action:**

**Title:** Actions pertaining to City of Fresno Retirement Boards and City of Fresno Deferred Compensation Board:  
1. BILL (for introduction) - Amending FMC Section 3-330(a) to clarify Tier I death provisions in the Fire and Police Retirement System;  
2. BILL (for introduction) - Amending FMC Sections 3-332, 3-353, 3-410, 3-424, and 3-566 to modify the DROP provisions in the Fire and Police and Employees Retirement Systems;  
3. BILL (for introduction) - Amending FMC Sections 3-352 and 3-565 in compliance with SECURE ACT 2.0 Required Minimum Distribution provisions;  
4. BILL (for introduction) - Amending FMC Sections 3-351 and 3-564 adding SIMPLE IRAs;  
5. BILL (for introduction) - Amending FMC Sections 3-402(f) to incorporate 3-303 and 3-320 to provide useful clarification as to the scope and status of the second tier; and  
6. Approve the Sixth Amendment to the Trust Agreement between Fidelity Management Trust Company and the City of Fresno to incorporate QDRO processing.

**Sponsors:** Retirement Department

**Indexes:**

**Code sections:**

**Attachments:** 1. 1-FMC 3-330(a) to Clarify Tier 1 Death Provisions in the FP1 Ret Sys, 2. 2-FMC-3-332, 3-353, 3-410, 3-424, 3-566 - Modify the DROP Provisions in FP1, FP2 and ERS Ret Sys, 3. 3-FMC 3-352 and 3-565 - SECURE Act and RMD in the FP1 and ERS Ret Sys, 4. 4-FMC 3-351 and 3-564 -Adding SIMPLE IRAs in FP1 and ERS Ret Sys, 5. 6-6th Amd to Trust Agt btw Fidelity and COF-QDRO.doc, 6. 5-FMC 3-402(f) to incorporate 3-303 and 3-320 in FP2 Ret Sys

Date	Ver.	Action By	Action	Result
4/18/2024	1	City Council	TABLED	

**REPORT TO THE CITY COUNCIL**

**FROM:** *City of Fresno Retirement Boards*  
*City of Fresno Deferred Compensation Board*

**BY:** *ROBERT THELLER, Retirement Administrator*  
*City of Fresno Retirement Office*

**SUBJECT**

Actions pertaining to City of Fresno Retirement Boards and City of Fresno Deferred Compensation Board:  
1. BILL (for introduction) - Amending FMC Section 3-330(a) to clarify Tier I death provisions in the Fire and Police Retirement System;  
2. BILL (for introduction) - Amending FMC Sections 3-332, 3-353, 3-410, 3-424, and 3-566 to modify the DROP provisions in the Fire and Police and Employees Retirement Systems;

3. BILL (for introduction) - Amending FMC Sections 3-352 and 3-565 in compliance with SECURE ACT 2.0 Required Minimum Distribution provisions;
4. BILL (for introduction) - Amending FMC Sections 3-351 and 3-564 adding SIMPLE IRAs;
5. BILL (for introduction) - Amending FMC Sections 3-402(f) to incorporate 3-303 and 3-320 to provide useful clarification as to the scope and status of the second tier; and
6. Approve the Sixth Amendment to the Trust Agreement between Fidelity Management Trust Company and the City of Fresno to incorporate QDRO processing.

## RECOMMENDATION

That the City Council adopts the following amendments to the Fresno Municipal Code and approve the Sixth Amendment to the City's Trust Agreement with Fidelity:

1. Ordinance amending FMC Section 3-330(a) to clarify Tier I death provisions in the Fire and Police Retirement System,
2. Ordinances amending FMC Sections 3-332, 3-353, 3-410, 3-424, and 3-566 to modify the DROP provisions in the Fire and Police and Employees Retirement Systems,
3. Ordinances amending FMC Sections 3-352 and 3-565 in compliance with SECURE Act 2.0 Required Minimum Distribution provisions,
4. Ordinances amending FMC Sections 3-351 and 3-564 adding SIMPLE IRAs,
5. Ordinance amending FMC Section 3-402(f) to incorporate 3-303 and 3-320, and
6. Sixth Amendment to the Trust Agreement between Fidelity Management Trust Company and the City of Fresno.

## EXECUTIVE SUMMARY

1. FMC Section 3-330(a) - Tier I Fire & Police Death Benefit Provisions  
In 1998, Tiers I and II merged into a single retirement system. Part of the merger agreement included a prospective benefit increase of 10%, i.e. 50% to 55% of average compensation, applicable to existing and future Tier I retirees and survivor annuitants. In early 2023, retirement staff discovered that in the many 1998 FMC amendments to codify the merger, Section 3-330(a) had been overlooked. The proposed amendment corrects that inconsistency.
2. FMC Sections 3-332, 3-353, 3-410, 3-424 and 3-566 - DROP Cost Neutrality  
In 2023, the City of Fresno Retirement Boards accepted FMC modified language to add additional mechanisms for the maintenance of DROP cost neutrality in Fire and Police and the Employees Retirement System.
3. FMC Sections 3-352 and 3-565 - Secure Act 2.0  
The congressional goal behind RMDs was to set forth dates by which the deferral of taxation on previously made pre tax retirement contributions would end through a taxpayer's receipt of taxable retirement benefits. The proposed changes modify the RMD ages to be consistent with changes in federal law under the SECURE Act and SECURE 2.0 Act. Complying with the new SECURE Acts' RMD provisions is mandatory.
4. FMC Sections 3-351 and 3-564 - Eligible Rollover  
The IRC has for many years mandated that retirement plans allow a rollover of retirement funds to other specified retirement plans. To this end, congress in 2015 amended its list to include SIMPLE IRAs.
5. FMC Section 3-402(f) - Tier II Clarification  
FMC section 3 402(f) currently sets forth a list that includes twenty three Tier I operative provisions applicable to the second tier. However, FMC sections 3 303 and 3 320 are not now on the list in section 3 402(f), although section 3 303 sets forth tax compliance provisions applicable to both tiers and FMC sections 3 320 sets forth the language necessary to have employee contributions be made on a pre tax basis. This proposed amendment, while not mandatory, provides useful clarification as to the scope and status of the second tier.
6. Sixth Amendment to the Trust Agreement Between Fidelity Management Trust Company and the City of

Fresno to incorporate QDRO processing. Amending the following:

- (1) Section 1. Definitions by adding:
  - (kk) "Domestic Relations Order" (or "DRO")
  - (ll) "Qualified Domestic Relations Order" (or "QDRO")
- (2) SCHEDULE "A", RECORDKEEPING AND ADMINISTRATIVE SERVICES by adding QDROs
- (3) SCHEDULE "B", FEE SCHEDULE by adding a QDRO Qualification Fee

These amendments were made with advice by the City of Fresno Retirement Office's legal and outside tax counsel, Ice Miller LLP.

## **BACKGROUND**

These amendments to the Fresno Municipal Code and the COF's Trust Agreement with Fidelity have been reviewed and approved by the Retirement Boards and the Deferred Compensation Board respectively, their legal and outside tax counsel, and the City Attorney's Office as to form.

## **ENVIRONMENTAL FINDINGS**

N/A

## **LOCAL PREFERENCE**

N/A

## **FISCAL IMPACT**

None.

Attachments:

1. Ordinance amending FMC Section 3-330(a), clean and redlined versions.
2. Ordinances amending FMC Section 3-332, Section 3-353, 3-410, Section 3-424 and Section 3-566, clean and redlined versions.
3. Ordinances amending FMC Sections 3-352 and 3-56, clean and redlined versions.
4. Ordinances amending FMC Section 3-351 and 3-564, clean and redlined versions.
5. Ordinance amending FMC Section 3-402(f), clean and redlined versions.
6. Sixth Amendment to the COF's Fidelity Management Trust Company Agreement, clean and redlined versions.