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Limitations on payment to person causing member's death or disability, 19-2-804.
Management of benefit payments, Title 19, ch. 2, part 9.
Exemption from taxes and legal process — exceptions, 19-2-1004.

19-9-1101. Preretirement death benefits. Upon the death of an active member, the member's surviving spouse or dependent child is eligible for benefits equal to one-half of the member's final average compensation, payable as provided in 19-9-804(2). If the deceased member has completed over 20 years of membership service, the survivorship benefit must equal 2.5% of the member's final average compensation for each year of membership service.

History: En. 11-1875 by Sec. 16, Ch. 456, L. 1977; R.C.M. 1947, 11-1875; amd. Sec. 3, Ch. 186, L. 1983; amd. Sec. 4, Ch. 350, L. 1985; amd. Sec. 7, Ch. 822, L. 1991; amd. Sec. 202, Ch. 265, L. 1993; amd. Sec. 4, Ch. 620, L. 1993; Sec. 19-9-911, MCA 1991; redes. 19-9-1101 by Code Commissioner, 1993; amd. Sec. 107, Ch. 42, L. 1997; amd. Sec. 78, Ch. 562, L. 1999; amd. Sec. 107, Ch. 99, L. 2001.

19-9-1102. Payments in absence of spouse or child. If, after a member dies, a benefit is not paid pursuant to 19-9-804, 19-9-903, or 19-9-1101, then the member's designated beneficiary must be paid the amount, if any, of the member's accumulated contributions minus the total of any benefits already paid from the member's account.

History: En. Sec. 2, Ch. 186, L. 1983; amd. Sec. 203, Ch. 265, L. 1993; Sec. 19-9-912, MCA 1991; redes. 19-9-1102 by Code Commissioner, 1993; amd. Sec. 79, Ch. 562, L. 1999; amd. Sec. 108, Ch. 99, L. 2001.

Part 12 Deferred Retirement Option Plan (DROP)

19-9-1201. Short title. This part may be cited as the deferred retirement option plan or DROP.

History: En. Sec. 1, Ch. 514, L. 2001.

19-9-1202. Definitions. Unless the context requires otherwise, as used in this part, the following definitions apply:

- (1) "DROP" means the deferred retirement option plan established pursuant to this part.
- (2) "DROP accrual" means the monthly benefit, including any postretirement adjustments, that would have been payable had the participant terminated employment and retired, multiplied by each month of the DROP period that the participant completes, plus interest.
- (3) "DROP benefit" means the lump-sum benefit calculated and distributed as provided in this part.
- (4) "DROP period" means the period of time that a member irrevocably elects to participate in the DROP pursuant to 19-9-1204.
- (5) "Monthly DROP accrual" means the amount equal to the monthly benefit that would have been payable to the participant had the participant terminated employment and retired.
- (6) "Participant" means a member of the retirement system who has elected to participate in the DROP pursuant to this part.

History: En. Sec. 2, Ch. 514, L. 2001; amd. Sec. 99, Ch. 429, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 429 inserted definitions of DROP accrual and monthly DROP accrual; and made minor changes in style. Amendment effective July 1, 2003.

19-9-1203. Deferred retirement option plan established — compliance with federal law — rulemaking. (1) The board shall establish a DROP for eligible members of the retirement system who elect to participate.

(2) The board shall administer the DROP in compliance with the Internal Revenue Code and the applicable rules, regulations, and determinations of the internal revenue service.

(3) The board may adopt rules to administer this part.

History: En. Sec. 3, Ch. 514, L. 2001.

19-9-1204. Eligibility — participation criteria — membership status — service interruptions. (1) Any member eligible to retire under 19-9-801(1) is eligible and may elect to participate in the DROP by filing a one-time irrevocable election with the board on a form prescribed by the board.

(2) A member electing to participate in the DROP shall participate for a minimum of 1 month and may not participate for more than 5 years.

(3) A member may participate in the DROP only once.

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(4) A participant remains a member of the retirement system, but may not receive membership service or service credit in the system for the duration of the member's DROP period.

(5) If participation is interrupted by military service or other temporary absence from work and the participant has not received any distribution from the DROP, then the duration of the absence may not be included in calculating the DROP period.

(6) Subject to the provisions of this section, a member who was eligible to retire under 19-9-801(1) on or after July 1, 2002, but before July 1, 2003, and who elects to participate in the DROP on or before October 1, 2003, may include within the member's DROP period any time during the period beginning July 1, 2002, and ending June 30, 2003.

History: En. Sec. 4, Ch. 514, L. 2001; amd. Sec. 55, Ch. 114, L. 2003; amd. Sec. 1, Ch. 261, L. 2003; amd. Sec. 100, Ch. 429, L. 2003.

Compiler's Comments

2003 Amendments — Composite Section: Chapter 114 in (1) substituted "19-9-801(1)" for "19-9-801(2)". Amendment effective October 1, 2003.

Chapter 261 in (1) near middle after "under" substituted "19-9-801(1)" for "19-9-801(2)"; and inserted (6) providing that members eligible for retirement after July 1, 2002, and before July 1, 2003, who elect to participate in the deferred retirement option plan before October 2, 2003, may include in their DROP period any time during the period beginning July 1, 2002, and ending June 30, 2003. Amendment effective April 9, 2003.

Chapter 429 in (5) after "military service or" substituted "other temporary absence from work" for "disability". Amendment effective July 1, 2003.

Retroactive Applicability: Section 3, Ch. 261, L. 2003, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to active members of the municipal police officers' retirement system who were eligible to retire under 19-9-801(1) on or after July 1, 2002, but before July 1, 2003."

Contingent Effective Date — Board to Seek Commissioner's Ruling: Section 11(1), Ch. 514, L. 2001, provided that 19-9-1204 through 19-9-1208 are effective contingent on the notification to the secretary of state that the commissioner of internal revenue has made a favorable determination pursuant to [section 9], not codified.

Section 9, Ch. 514, L. 2001, provided: "The public employees' retirement board shall, as soon as possible, request in writing a ruling from the commissioner of internal revenue as to whether the deferred retirement option plan established pursuant to [sections 1 through 8] [19-9-1201 through 19-9-1208] constitutes a qualified plan pursuant to section 401(a) of the Internal Revenue Code. The board shall notify the secretary of state and code commissioner when the commissioner of internal revenue has issued a favorable determination." Section 11(2), Ch. 514, L. 2001, provided that sec. 9, Ch. 514, L. 2001, is effective on passage and approval. Approved May 1, 2001. The contingency occurred on April 25, 2002, when the Board notified the Code Commissioner and the Secretary of State that the Commissioner of Internal Revenue had issued a favorable determination dated February 25, 2002.

19-9-1205. Retirement system contributions — benefit payments to individual accounts — investment returns. (1) During a member's participation in the DROP, state contributions under 19-9-702, employer contributions under 19-9-703, and member contributions under 19-9-710 must continue to be made to the retirement system.

(2) For each DROP participant, the board shall calculate a DROP accrual.

History: En. Sec. 5, Ch. 514, L. 2001; amd. Sec. 101, Ch. 429, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 429 in (2) at end substituted "DROP accrual" for "DROP benefit equal to the monthly benefit, including any postretirement adjustments, that would have been payable had the participant terminated employment and retired, multiplied by each month of the DROP period that the participant completes". Amendment effective July 1, 2003.

Contingent Effective Date — Board to Seek Commissioner's Ruling: Section 11(1), Ch. 514, L. 2001, provided that 19-9-1204 through 19-9-1208 are effective contingent on the notification to the secretary of state that the commissioner of internal revenue has made a favorable determination pursuant to [section 9], not codified.

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19-9-1206. Survivorship benefits. (1) If a participant dies prior to the receipt of the DROP benefit pursuant to 19-9-1208, the participant's surviving spouse or dependent child is entitled to receive a lump-sum payment equal to the participant's DROP benefit and the member's accumulated contributions minus any benefits paid from the member's account, including monthly DROP accruals.

(2) If there is no surviving spouse or dependent child, the designated beneficiary is entitled to receive a lump-sum payment equal to the participant's DROP benefit.

(3) The benefit paid pursuant to this section must include interest reflecting the retirement system's annual investment earnings from the date the member's DROP period commenced.

History: En. Sec. 6, Ch. 514, L. 2001; amd. Sec. 102, Ch. 429, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 429 at end of (1) inserted "and the member's accumulated contributions minus any benefits paid from the member's account, including monthly DROP accruals". Amendment effective July 1, 2003.

Contingent Effective Date — Board to Seek Commissioner's Ruling: Section 11(1), Ch. 514, L. 2001, provided that 19-9-1204 through 19-9-1208 are effective contingent on the notification to the secretary of state that the commissioner of internal revenue has made a favorable determination pursuant to [section 9], not codified.

Section 9, Ch. 514, L. 2001, provided: "The public employees' retirement board shall, as soon as possible, request in writing a ruling from the commissioner of internal revenue as to whether the deferred retirement option plan established pursuant to [sections 1 through 8] [19-9-1201 through 19-9-1208] constitutes a qualified plan pursuant to section 401(a) of the Internal Revenue Code. The board shall notify the secretary of state and code commissioner when the commissioner of internal revenue has issued a favorable determination." Section 11(2), Ch. 514, L. 2001, provided that sec. 9, Ch. 514, L. 2001, is effective on passage and approval. Approved May 1, 2001. The contingency occurred on April 25, 2002, when the Board notified the Code Commissioner and the Secretary of State that the Commissioner of Internal Revenue had issued a favorable determination dated February 25, 2002.

19-9-1207. Employment and benefits after DROP period. (1) Except as otherwise provided in this section, if a member continues employment in a covered position after the DROP period ends, the board shall consider the member newly hired as of the date the DROP period ended.

(2) When a member, after the end of the DROP period, continues employment in a covered position, state contributions under 19-9-702, employer contributions under 19-9-703, and member contributions under 19-9-710 must continue to be made to the retirement system.

(3) A member who, after the end of the DROP period, continues employment in a covered position:

(a) is immediately vested for benefits accrued subsequent to the end of the DROP period; and

(b) is, upon terminating covered employment, entitled to:

(i) the member's service retirement benefit earned prior to the DROP period, including any postretirement benefit adjustment for which the member is eligible under this chapter;

(ii) a service retirement benefit based on the member's service credit and final average compensation during membership subsequent to the end of the DROP period, including any postretirement benefit adjustment for which the member is eligible under this chapter; and

(iii) the member's DROP benefit.

History: En. Sec. 7, Ch. 514, L. 2001; amd. Sec. 103, Ch. 429, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 429 in (3)(b)(ii) after "service" inserted "credit". Amendment effective July 1, 2003.

Contingent Effective Date — Board to Seek Commissioner's Ruling: Section 11(1), Ch. 514, L. 2001, provided that 19-9-1204 through 19-9-1208 are effective contingent on the notification to the secretary of state that the commissioner of internal revenue has made a favorable determination pursuant to [section 9], not codified.

Section 9, Ch. 514, L. 2001, provided: "The public employees' retirement board shall, as soon as possible, request in writing a ruling from the commissioner of internal revenue as to whether the deferred retirement option plan established pursuant to [sections 1 through 8] [19-9-1201 through 19-9-1208] constitutes a qualified plan pursuant to section 401(a) of the Internal Revenue Code. The board shall notify the secretary of state and code commissioner when the commissioner of internal revenue has issued a favorable determination." Section 11(2), Ch. 514, L. 2001, provided that sec. 9, Ch. 514, L. 2001, is effective on passage and approval. Approved May 1, 2001. The contingency occurred on April 25, 2002, when the Board notified the Code Commissioner and the Secretary of State that the Commissioner of Internal Revenue had issued a favorable determination dated February 25, 2002.

19-9-1208. Distribution of DROP benefit. (1) Upon termination of covered employment, a participant is entitled to:

(a) receive a lump-sum distribution of the participant's DROP benefit;

(b) roll the participant's DROP benefit into another eligible retirement plan in a manner prescribed and authorized by the board; or

(c) any other distribution or method of payment of the DROP benefit approved by the board.

(2) A distribution pursuant to this section is subject to the provisions of 19-2-907 and 19-2-909 and all other applicable provisions of Title 19 and the Internal Revenue Code.

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(3) The amount of a distribution, rollover, transfer, or other payment of a DROP benefit pursuant to this section must include interest reflecting the retirement system's annual investment earnings from the date the member's DROP period commenced.

History: En. Sec. 8, Ch. 514, L. 2001; amd. Sec. 104, Ch. 429, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 429 in (1)(b) substituted "eligible retirement plan" for "qualified plan"; and at end of (2) inserted reference to Internal Revenue Code. Amendment effective July 1, 2003.

Contingent Effective Date — Board to Seek Commissioner's Ruling: Section 11(1), Ch. 514, L. 2001, provided that 19-9-1204 through 19-9-1208 are effective contingent on the notification to the secretary of state that the commissioner of internal revenue has made a favorable determination pursuant to [section 9], not codified.

Section 9, Ch. 514, L. 2001, provided: "The public employees' retirement board shall, as soon as possible, request in writing a ruling from the commissioner of internal revenue as to whether the deferred retirement option plan established pursuant to [sections 1 through 8] [19-9-1201 through 19-9-1208] constitutes a qualified plan pursuant to section 401(a) of the Internal Revenue Code. The board shall notify the secretary of state and code commissioner when the commissioner of internal revenue has issued a favorable determination." Section 11(2), Ch. 514, L. 2001, provided that sec. 9, Ch. 514, L. 2001, is effective on passage and approval. Approved May 1, 2001. The contingency occurred on April 25, 2002, when the Board notified the Code Commissioner and the Secretary of State that the Commissioner of Internal Revenue had issued a favorable determination dated February 25, 2002.

CHAPTER 10 POLICE RETIREMENT — LOCAL FUNDS (Renumbered)

Part 1 — General Provisions (Renumbered)

Part 2 — Management of Police Retirement Funds (Renumbered)

Part 3 — Contributions to Funds (Renumbered)

Part 4 — Eligibility for Retirement Benefits (Renumbered)

Part 5 — Benefits (Renumbered)

Part 1 General Provisions (Renumbered)

19-10-101. Renumbered 19-19-101. Code Commissioner 1993.

Part 2 Management of Police Retirement Funds (Renumbered)

19-10-201. Renumbered 19-19-201. Code Commissioner 1993.

19-10-202. Renumbered 19-19-202. Code Commissioner 1993.

19-10-203. Renumbered 19-19-203. Code Commissioner 1993.

19-10-204. Renumbered 19-19-204. Code Commissioner 1993.

19-10-205. Renumbered 19-19-205. Code Commissioner 1993.

Part 3 Contributions to Funds (Renumbered)

19-10-301. Renumbered 19-19-301. Code Commissioner 1993.

19-10-302. Renumbered 19-19-302. Code Commissioner 1993.

19-10-303. Renumbered 19-19-303. Code Commissioner 1993.