

AN ACT

Bill 19-1068

Emergency
Declaration
Res. 19-720
20 DCStat 550

Codification
District of
Columbia
Official Code
2001 Edition

To amend, on an emergency basis, the Policemen and Firemen's Retirement and Disability Act to permit nontaxable distributions to be directly rolled over tax-free to another qualified plan or a 403(b) plan, to permit rollovers to Roth IRAs, to allow non spouse beneficiaries to roll over distributions to an IRA, to amend the definition of an "eligible rollover distribution" to include a distribution to a non-spouse beneficiary, to require that a rollover notice be distributed within 30 to 180 days and describe tax consequences of failure to defer, to amend the applicable interest rate and mortality table to be used for determining the present value of lump-sum distributions, to update the mortality table to be used in calculating the minimum value of operational forms of benefit in adjusting benefits and limits for the purposes of applying limits under section 415 of the Internal Revenue Code of 1986, to allow survivors of a participant who died while performing qualified military service to receive death benefits as if the participant had been in active service, to treat differential wage payments to participants for serving in the armed forces as compensation for retirement purposes, to state that pre-tax employee contributions are paid for by the employer, to state that the vesting requirements under pre-ERISA are satisfied, to require that actuarial assumptions used to determine benefits preclude employer discretion, to require that benefit payments satisfy the minimum distribution rules, to permit make-up contributions and benefits as required under the Uniformed Services Employment and Reemployment Rights Act, to require that an alternate payee under a qualified domestic relations order be taxed in the same manner as a participant, to include a failsafe provision regarding the tax qualification of the act, to limit benefits and contributions as required under the tax code, to state that compensation taken into account in determining contributions and benefits is subject to annual limits, and to state that funds cannot revert to the employer except in limited circumstances.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Police and Firefighter's Retirement and Disability Omnibus Emergency Amendment Act of 2012".

Police and
Firefighter's
Retirement
and Disability
Omnibus
Emergency
Amendment
Act of 2012

Sec. 2. The Policemen and Firemen's Retirement and Disability Act, approved September 1, 1916 (39 Stat. 718; D.C. Official Code § 5-701 *passim*), is amended as follows:

(a) Section 12(c)(2) (D.C. Official Code § 5-704(b)(2)) is amended by adding a sentence at the end to read as follows:

Note,
§ 5-704

"Notwithstanding any other provision to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with section 414(u) of the Internal Revenue Code of 1986".

(b) Section 12(d) (D.C. Official Code § 5-706) is amended as follows:

Note,
§ 5-706

(1) Paragraph (1) is amended to read as follows:

"(1) On and after the first day of the first pay period that begins on or after October 26, 1970, there shall be deducted and withheld from each member's basic salary an

amount equal to 7% of such basic salary for all members hired before the first day of the first pay period that begins after October 29, 1996, and 8% of such basic salary for all members hired on or after the first day of the first pay period that begins after October 29, 1996. In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, these deductions and withholdings shall be paid to the District of Columbia Retirement Board and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-712), and in the case of any other member, these deductions and withholdings shall be paid to the Collector of Taxes of the District of Columbia and shall be deposited in the Treasury to the credit of the District of Columbia. Amounts deducted and withheld from the basic salary of each member of the District of Columbia Fire and Emergency Medical Services Department shall be:

"(A) Picked up by the District of Columbia Fire and Emergency Medical Services Department, as described in section 414(h)(2) of the Internal Revenue Code of 1986;

"(B) Deducted and withheld from the annual salary of the members as salary reduction contributions;

"(C) Paid by the District of Columbia Fire and Emergency Medical Services Department to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-702(6))); and

"(D) Made a part of the member's annuity benefit."

(2) Paragraph (5) is amended to read as follows:

"(5)(A) An individual withdrawing a distribution under this section, which distribution constitutes an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986, may elect, at the time and in the manner prescribed by the District of Columbia Retirement Board, and after receipt of proper notice, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan, within the meaning of section 402(c) of the Internal Revenue Code of 1986, in a direct rollover in accordance with section 401(a)(31) of the Internal Revenue Code of 1986.

"(B) For the purposes of this paragraph, the following definitions apply:

"(i) An "eligible rollover distribution" within the meaning of section 402(c) of the Internal Revenue Code of 1986 is a distribution of all or a portion of the balance to the credit of the distributee; provided, that an eligible rollover distribution does not include:

"(I) A distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; and

"(II) A distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code of 1986. A distribution to a nonspouse beneficiary under section 401(f)(2)(A) of the Internal Revenue Code of 1986 is an

eligible rollover distribution. A portion of the distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, the portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code of 1986 or to a qualified trust or annuity plan described in section 401(a) or 403(a) of the Internal Revenue Code of 1986 or an annuity contract described in section 403(b) of the Internal Revenue Code of 1986 if the trust or annuity plan or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible.

"(ii) An "eligible retirement plan" means:

"(I) An individual retirement account described in section 408(a) of the Internal Revenue Code of 1986, including a Roth IRA described in section 408A of the Internal Revenue Code of 1986;

"(II) An individual retirement annuity described in section 408(b) of the Internal Revenue Code of 1986, including a Roth IRA described in section 408A of the Internal Revenue Code of 1986;

"(III) A qualified trust described in section 401(a) of the Internal Revenue Code of 1986 or an annuity plan described in section 403(a) of the Internal Revenue Code of 1986 that accepts the distributee's eligible rollover distribution;

"(IV) An annuity contract described in section 403(b) of the Internal Revenue Code of 1986 that accepts the distributee's eligible rollover distribution; and

"(V) An eligible plan described in section 457(b) of the Internal Revenue Code of 1986 that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state that accepts the distributee's eligible rollover distribution and agrees to account separately for amounts transferred into such plan from the arrangement described under this paragraph. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relations order.

"(iii) A "distributee" means a member or former member. In addition, the member's or former member's surviving spouse is a distributee with regard to the interest of the spouse or former spouse.

"(iv) A "direct rollover" means a payment to the eligible retirement plan specified by the distributee described in section 402(e)(6) of the Internal Revenue Code of 1986.

"(v) A non-spouse beneficiary of a deceased member is also a distributee for the purposes of this section; provided, that in the case of a non-spouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity under section 408 of the Internal Revenue Code of 1986 that is established on behalf of the non-spouse beneficiary and that will be treated as an inherited IRA pursuant to the provisions of section 402(c)(11) of the Internal Revenue Code of 1986. The determination of the extent to which a

distribution to a non-spouse beneficiary is required under section 401(a)(9) of the Internal Revenue Code of 1986 shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.”.

(3) Paragraph (7)(A) is amended to read as follows:

“(7)(A) The District of Columbia Retirement Board shall also be entrusted with a rollover contribution from an eligible retirement plan, including:

“(i) A qualified plan described in sections 401(a) or 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

“(ii) An annuity contract described in section 403(b) of the Internal Revenue Code of 1986, excluding after-tax employee contributions;

“(iii) An eligible plan under section 457(b) of the Internal Revenue Code of 1986, which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state; or

“(iv) Amounts transferred from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code of 1986 that is eligible to be rolled over and would otherwise be includible in gross income.”.

(4) Paragraph (8) is amended to read as follows:

“(8) The provisions of this act shall constitute a defined benefit plan and a governmental plan as described in section 414(d) of the Internal Revenue Code of 1986, which is intended to qualify under section 401(a) of the Internal Revenue Code. Notwithstanding anything to the contrary contained in this act, the District of Columbia Retirement Reform Act, approved November 19, 1977 (93 Stat. 866; D.C. Official Code § 1-701 *et seq.*), or the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901 *et seq.*), the provisions of this act shall apply to and control the provision of an annuity payable. The District of Columbia Retirement Board shall administer the plan in the manner required to satisfy the applicable qualification requirements for a qualified governmental plan pursuant to the Internal Revenue Code of 1986. If a conflict should arise with a qualification requirement, the provision shall be interpreted in favor of maintaining the federal qualification requirements.”.

(5) New paragraphs (10) and (11) are added to read as follows:

“(10) Effective January 1, 2007, benefits payable under this act shall not be paid until at least 30 days (or shorter period as may be permitted by law) but no more than 180 days after a member’s receipt of all required distribution notices and election forms pursuant to section 402(f) of the Internal Revenue Code of 1986. The required notices must include a description of the member’s right (if any) to defer receipt of a distribution, the consequences of failing to defer receipt of the distribution, the relative value of optional forms of benefit, and other information as may be required by applicable regulations and guidance.

“(11) Notwithstanding anything contained herein to the contrary, upon the employer’s request, a contribution which was made by a mistake of fact shall be returned to the employer by the trustee within one year after the payment of the contribution. A portion of a contribution returned pursuant to this section shall be adjusted to reflect any earnings or gains.

Notwithstanding anything contained herein to the contrary, the right or claim of a participant or beneficiary to an asset of the trust or a benefit under this act shall be subject to and limited by the provisions of this provision.”.

(c) Section 12(h) (D.C. Official Code § 5-712) is amended by adding new paragraphs (8) and (9) to read as follows:

**Note,
§ 5-712**

“(8) A member who meets the requirements for receiving an annuity under this section, but for the fact that the member has not yet retired, shall be 100% vested in the member's annuity.

“(9) Each year, the District of Columbia Retirement Board shall set the applicable interest rate, mortality table, and cost of living factor to be used in the determination of actuarial equivalents or for other pertinent benefit calculations under the provisions of this act.”.

(d) Section 12(k) (D.C. Official Code § 5-716) is amended by adding a new paragraph (7) to read as follows:

**Note,
§ 5-716**

“(7) In the event a member to whom this section applies shall die after January 1, 2007, while performing qualified military service, the survivor or survivors of the member shall be entitled to receive any additional benefits provided under this section (other than benefit accruals relating to the period of qualified military service), as if the member resumed employment and then terminated employment on account of death. For the purposes of this paragraph, the term “qualified military service” shall mean military service in the uniformed services (as defined in 38 U.S.C. § 43) by a member, if the member is entitled to reemployment rights with respect to such military service, all within the meaning of section 414(u)(5) of the Internal Revenue Code of 1986.”.

(e) Section 12(n-1) (D.C. Official Code § 5-723.01) is amended to read as follows:

**Note,
§ 5-723.01**

“(n-1)(1) Benefits and contributions under the provisions of this act shall not be computed with reference to any compensation that exceeds that maximum dollar amount permitted by section 401(a)(17) of the Internal Revenue Code, as adjusted for the cost of living.

“(2) Notwithstanding foregoing provisions of this act to the contrary, benefits under this act are subject to the limitations imposed by section 415 of the Internal Revenue Code, as adjusted from time to time and, to that end, effective for limitation years beginning on or after January 1, 2008:

“(A) To the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to the remainder of this subsection, the maximum monthly benefit to which any member may be entitled in any limitation year with respect to his or her accrued retirement benefit, as adjusted from time to time pursuant to section 12(m) (the “maximum benefit”), shall not exceed the defined benefit dollar limit (adjusted as provided in this subsection). In addition to the foregoing, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, and subject to the remainder of this subsection, the maximum annual additions for any limitation year shall be equal to the lesser of:

“(i) The dollar limit on annual additions; or

“(ii) 100% of the member's remuneration. The defined benefit dollar limit and the dollar limit on annual additions shall be adjusted, effective January 1 of each

year, under section 415(d) of the Internal Revenue Code in such manner as the Secretary of the Treasury shall prescribe. The dollar limit as adjusted under section 415(d) of the Internal Revenue Code shall apply to limitation years ending with or within the calendar year for which the adjustment applies, but a member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. To the extent that the monthly benefit payable to a member who has reached the member's termination date is limited by the application of this subsection, the limit shall be adjusted to reflect subsequent adjustments made in accordance with section 415(d) of the Internal Revenue Code, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.

"(B) Benefits shall be actuarially adjusted based upon the defined benefit dollar limit, as follows:

"(i) There shall be an adjustment for benefits payable in a form other than a straight life annuity as follows:

"(I) If a monthly benefit is payable in a form other than a straight life annuity, before applying the defined benefit dollar limit, the benefit shall be adjusted in the manner described in sub-sub-subparagraphs (II) or (III) of this sub-subparagraph, to the actuarially equivalent straight life annuity that begins at the same time. No actuarial adjustment to the benefit shall be made for:

"(aa) Benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

"(bb) In the case of a form of benefit not subject to section 417(e)(3) of the Internal Revenue Code, the inclusion of a feature under which a benefit increases automatically to the extent permitted to reflect cost-of-living adjustments and the increase, if any, in the defined benefit dollar limit under section 415(d) of the Internal Revenue Code.

"(II) If the benefit of a member is paid in a form not subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity (without regard to cost-of-living adjustments described in this subsection) is equal to the greater of:

"(aa) The annual amount of the straight life annuity (if any) payable to the member commencing at the same time; or

"(bb) The annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the member's form of benefit, computed using a 5% interest rate and the applicable mortality designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code.

"(III) If the benefit of a member is paid in a form subject to section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity is equal to the greatest of:

"(aa) The annual amount of the straight life annuity

having a commencement date that has the same actuarial present value as the member's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the definition of actuarial equivalent for adjusting benefits in the same form;

"(bb) The annual amount of the straight life annuity commencing at the time that has the same actuarial present value as the member's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code; or

"(cc) The annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the member's form of benefit, computed using the applicable interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code, divided by 1.05.

"(IV) For the purposes of paragraph (2)(B)(i) of this subsection, whether a form of benefit is subject to section 417(e) of the Internal Revenue Code is determined without regard to the status of this act as a governmental plan as described in section 414(d) of the Internal Revenue Code.

"(ii) There shall be an adjustment to benefits that commence before age 62 or after age 65 as follows:

"(I) If the benefit of a member begins before age 62, the defined benefit dollar limit applicable to the member at the earlier age shall be an annual benefit payable in the form a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limit applicable to the member at age 62 (adjusted for participation of fewer than 10 years if applicable) computed using a 5% interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this act provides an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

"(aa) The limitation determined under the immediately preceding sentence; or

"(bb) The defined benefit dollar limit (adjusted for participation of fewer than 10 years if applicable) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under this act at the age of benefit commencement to the annual amount of the immediately commencing straight life annuity under this act at age 62, both determined without applying the limitations of this section. The adjustment in sub-subparagraph (i) of this subparagraph shall not apply as a result of benefits paid on account of disability under sections 12(f) or 12(g) or as a result of the death of a member under section 12(k). Notwithstanding the provisions above, a member that qualifies under section 415(b)(2)(G) of the Internal Revenue Code is not subject to the adjustment to benefits that commence before age 62.

"(II) If the benefit of a member begins after age 65, the

defined benefit dollar limit applicable to the member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limit applicable at age 65 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to section 417(e)(3) of the Internal Revenue Code. However, if the benefit provided under this act provides an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limit is the lesser of:

"(aa) The limitation determined under the immediately preceding sentence; or

"(bb) The defined benefit dollar limit (adjusted for participation of less than 10 years if applicable) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under this act at the age of benefit commencement to the annual amount of the adjusted immediately commencing straight life annuity under this act at age 65, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under this act at the age the benefit commences is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age 65 but including any actuarial adjustments, even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under this act at age 65 is the annual amount of such annuity that would be payable under this act to a hypothetical member who is age 65 and has the same annuity as the member.

"(III) For the purposes of paragraph (2)(B) of this subsection, no adjustment shall be made to the defined benefit dollar limit to reflect the probability of a member's death between the commencing date and age 62, or between age 65 and the commencing date, as applicable, if benefits are not forfeited upon the death of the member prior to the annuity having a commencing date. To the extent that benefits are forfeited upon death before the date the benefits first commence, an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the benefit provided under this act does not charge the member for providing a qualified preretirement survivor annuity (as defined for purposes of section 415 of the Internal Revenue Code) upon the member's death.

"(C) If the member has fewer than 10 years of participation in the defined benefit portion of this act (as determined under section 415 of the Internal Revenue Code and the regulations thereunder), the defined benefit dollar limit shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation under this act and the denominator of which is 10. The adjustment in this subsection shall not apply to benefits paid on account of disability under sections 12(f) or (g) or as a result of the death of a member under section 12(k). In the case of years of credited service credited to a member pursuant to section 12(c):

"(i) The limitations contained in paragraph (2)(A)(i) and (C) of this

subsection shall not apply to the portion of the member's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under section 12(c) that are actuarially funded by:

"(I) A transfer or rollover from the member's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code or an eligible deferred compensation plan (within the meaning of section 457(b) of the Internal Revenue Code) or from an individual retirement account; or

"(II) A direct payment.

"(ii) The limitations contained in paragraph (2)(A)(i) and (C) shall apply to the portion of the member's accrued retirement benefit (determined as of the annuity commencement date) that is attributable to any additional years of credited service under section 12(c) that are not actuarially funded by:

"(I) A transfer or rollover from the member's account under a retirement plan qualified under section 401(a) of the Internal Revenue Code or an eligible deferred compensation plan (within the meaning of section 457(b) of the Internal Revenue Code) or from an individual retirement account; or

"(II) A direct payment.

"(iii) The determination of the extent to which additional years of credited service under section 12(c) have been actuarially funded as of the annuity commencement date shall be determined in accordance with section 411(c) of the Internal Revenue Code (using the actuarial assumptions thereunder), applied as if section 411(c) of the Internal Revenue Code applied and treating the amount transferred from a plan qualified under section 401(a) of the Internal Revenue Code, the member's account under an eligible deferred compensation plan (within the meaning of section 457(b) of the Internal Revenue Code), or an individual retirement account, or the amount of the direct lump-sum payment to the Custodian of Retirement Funds, as if it were a mandatory employee contribution.

"(D) In addition to the above, the maximum benefit and contributions shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification under section 415 of the Internal Revenue Code, with respect to a member who is also a participant in:

"(i) Another tax-qualified retirement plan maintained by the District, including a defined benefit plan in which an individual medical benefit account (as described in section 415(l) of the Internal Revenue Code) has been established for the member;

"(ii) A welfare plan maintained by the District in which a separate account (as described in section 419A(d) of the Internal Revenue Code) has been established to provide post-retirement medical benefits for the member; or

"(iii) A retirement or welfare plan, as previously mentioned, maintained by an affiliated or predecessor employer, as described in regulations under section 415 of the Internal Revenue Code, or otherwise required to be taken into account under such regulations.

"(E) If a member has distributions commencing at more than one date

(determined in accordance with section 415 of the Internal Revenue Code and associated regulations), the annuity payable having such commencement date shall satisfy the limitations of paragraph (2) of this subsection as of each date, actuarially adjusting for past and future distributions of benefits commencing at the other dates that benefits commence.

"(F) The application of the provisions of paragraph (2) of this subsection shall not cause the maximum permissible benefit for a member to be less than the member's annuity under this act as of the end of the last limitation year beginning before July 1, 2007 under provisions of this act that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under section 415 of the Internal Revenue Code as in effect as of the end of the last limitation year beginning before July 1, 2007.

"(G) To the extent that a member's benefit is subject to provisions of section 415 of the Internal Revenue Code that have not been set forth in this act, the provisions are hereby incorporated by reference and for all purposes shall be deemed a part of this act.

"(H) For the purposes of this subsection, the term:

"(i) "Annual additions" means the sum of the following items credited to the member under the Acts and any other tax-qualified retirement plan sponsored by the District for a limitation year and treated as a defined contribution plan for purposes of section 415 of the Internal Revenue Code: District contributions that are separately allocated to the member's credit in an defined contribution plan; forfeitures; member contributions; and amounts credited after March 31, 1984 to a member's individual medical account (within the meaning of section 415(l) of the Internal Revenue Code).

"(ii) "Defined benefit dollar limit" means the dollar limit imposed by section 415(b)(1)(A) of the Internal Revenue Code, as adjusted pursuant to section 415(d) of the Internal Revenue Code. The defined benefit dollar limit as set forth above is the monthly amount payable in the form of a straight life annuity, beginning no earlier than age 62 (except as provided in paragraph (2)(B)(ii)(I) of this subsection) and no later than age 65. In the case of a monthly amount payable in a form other than a straight life annuity, or beginning before age 62 or after age 65, the adjustments in paragraph (2)(B) of this subsection shall apply.

"(iii) "Dollar limit" means the dollar limit on annual additions imposed by section 415(c)(1)(A) of the Internal Revenue Code, as adjusted pursuant to section 415(d) of the Internal Revenue Code.

"(iv) "Internal Revenue Code" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*).

"(v) "Remuneration" means a member's wages as defined in section 3401(a) of the Internal Revenue Code and other payments of salary to the member from the District, for which the District is required to furnish the member a written statement under section 6041(d) of the Internal Revenue Code and section 6051(a)(3) of the Internal Revenue Code. For this purpose:

"(I) Remuneration shall be determined without regard to rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

"(II) Remuneration shall include an amount that would otherwise be deemed remuneration under this definition but for the fact that it is subject to a salary reduction agreement under a plan described in section 457(b), 132(f) or 125 of the Internal Revenue Code.

"(III) Remuneration with respect to any limitation year shall in no event exceed the dollar limit specified in section 401(a)(17) of the Internal Revenue Code (as adjusted from time to time by the Secretary of the Treasury). The cost of living adjustment in effect for a calendar year applies to remuneration for the limitation year that begins with or within such calendar year.

"(3) Notwithstanding any other provision to the contrary, all death benefits paid pursuant to this section shall be distributed only in accordance with section 401(a)(9) of the Internal Revenue Code (and accompanying Treasury regulations), as more fully set forth in section 12(n-3)."

(f) New sections 12(n-3), 12(n-4), and 12(n-5) are added to read as follows:

**Note, New
§ 5-723.03**

"Sec. 12(n-3). Required minimum distributions.

"Distributions shall begin no later than the member's required beginning date, as defined in section 401(a)(9) of the Internal Revenue Code, and shall be made in accordance with all other requirements of section 401(a)(9) of the Internal Revenue Code. The provisions of this section shall apply for the purposes of determining minimum required distributions under section 401(a)(9) of the Internal Revenue Code and take precedence over any inconsistent provisions of this act; provided, that these provisions are intended solely to reflect the requirements of section 401(a)(9) of the Internal Revenue Code and accompanying Treasury regulations and are not intended to provide or expand (and shall not be construed as providing or expanding) a benefit or distribution option not otherwise expressly provided for under the terms of this act. The provisions of this section shall apply only to the extent required under section 401(a)(9) of the Internal Revenue Code as applied to a governmental plan, and if special rules for governmental plans are not set forth herein, the special rules are incorporated by reference and shall for all purposes be deemed a part of this act.

"(1) Time and manner of distribution.

"(A) The member's entire interest shall be distributed or begin being distributed to the member no later than April 1 following the later of:

"(i) The calendar year in which the member attains age 70 ½; or

"(ii) The calendar year in which the member retires or terminates employment (the "required beginning date").

"(B) If the member dies before distributions begin, the member's entire interest shall be distributed, or will begin to be distributed, no later than as follows:

"(i) If the member's surviving spouse is the sole designated beneficiary, distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age 70½, if later;

"(ii) If the member's surviving spouse is not the sole designated beneficiary, distributions to the designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the member died;

"(iii) If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest shall be distributed by December 31 of the calendar year of the 5th anniversary of the member's death;

"(iv) If the member's surviving spouse is the sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, paragraph (1)(B)(i) of this subsection shall not apply, and paragraph (1)(B)(ii) and (iii) of this subsection shall apply as if the surviving spouse were the member. For the purposes of paragraphs (1)(B) and (3) of this subsection distributions are considered to begin on the member's required beginning date (or, if paragraph (1)(B)(iv) of this subsection applies, the date distributions to the surviving spouse are required to begin under paragraph (1)(B)(i) of this subsection). If annuity payments to the member irrevocably commence before the member's required beginning date (or to the member's surviving spouse before the date distributions to the surviving spouse are required to begin under paragraph (1)(B)(i) of this subsection), the date distributions are considered to begin is the date distributions actually commence.

"(C) Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution, calendar year distributions will be made in accordance with paragraphs (2) and (3) of this subsection. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions of the annuity will be made in accordance with the requirements of section 401(a)(9) of the Internal Revenue Code and applicable Treasury regulations. Any part of the member's interest that is in the form of an individual account described in section 414(k) of the Internal Revenue Code will be distributed in a manner satisfying the requirements of section 401(a)(9) of the Internal Revenue Code and the Treasury regulations that apply to individual accounts.

"(2) The amount of the annuity is to be determined each year.

"(A) If the member's interest is paid in the form of annuity distributions, payments under the annuity shall satisfy the following requirements:

"(i) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;

"(ii) Payments will either be non-increasing or increase only as follows:

"(I) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index based on prices of all items (the CPI-W) and issued by the Bureau of Labor Statistics;

"(II) To provide cash refunds of employee contributions upon the teacher's death;

"(III) Pay increased benefits that result from an amendment to this act.

"(B) The amount that must be distributed on or before the member's required beginning date (or, if the member dies before distributions begin, the date distributions are required to begin under paragraph (1)(B)(i) or (ii) of this subsection) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

"(C) Additional benefits accruing to the member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

"(3) Amounts payable if a member dies before distribution begins are subject to the following requirements:

"(A) If the member dies before the date of distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest will be distributed, beginning no later than the time described in paragraph (1)(B)(i) or (ii) of this subsection, over the life of the designated beneficiary not exceeding either of the following:

"(i) Unless the benefit commenced is before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the teacher's death; or

"(ii) If the benefit commenced before the first distribution calendar year, the life expectancy of the designated beneficiary, determined using the beneficiary's age as of his or her birthday in the calendar year that begins before benefits commence; or

"(B) If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's entire interest will be completed by December 31 of the calendar year of the fifth anniversary of the member's death; or

"(C) If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, paragraph (3) of this subsection will apply as if the surviving spouse were the member, except that the time by which distributions must begin will be determined without regard to paragraph (1)(B)(i) of this subsection.

"Sec. 12(n-4). Disposition of forfeitures.

Forfeitures in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-714), shall not be applied to increase the annuity of a person, but rather, shall be applied to pay administrative expenses, if and as

directed by the District of Columbia Retirement Board, and/or used to reduce the District's contributions.

“Sec. 12(n-5). Funds not assignable or subject to execution.

**Note, New
§ 5-723.05**

Except as provided in the District of Columbia Spouse Equity Act of 1988, approved March 16, 1989 (D.C. Law 7-214; D.C. Official Code § 1-529.01), none of the money mentioned in this part (including any assets of the District of Columbia Police Officers and Fire Fighters' Retirement Fund) shall be assignable, either in law or equity, or be subject to execution of levy by attachment, garnishment, or other legal process except with respect to a domestic relations order that substantially meets all of the requirements of section 414(p) of the Internal Revenue Code as determined solely by the District of Columbia Retirement Board.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).