

**AUSTIN POLICE RETIREMENT SYSTEM POST
RETIREMENT OPTION PLAN (PROP)**

**POLICY AND PROCEDURE FOR DEFERRING
ALL OR A PORTION OF A MEMBER'S MONTHLY
ANNUITY INTO PROP**

A. PURPOSE

Under the rules adopted by the Austin Police Retirement System ("System") Board of Trustees, retiring and retired members may elect to defer receipt of all or a portion (as described below) of their monthly annuity in order to defer the taxation of the deferred payments and to have the deferred benefits accumulate for later disbursement and later taxation in a Post Retirement Option Plan ("PROP") account. The purpose of this policy and procedure is to provide a coordinated and fully documented process for applicants to defer annuity payments into PROP. In addition, this policy and procedure is intended to provide those associated with the process (members of the System, the System's Board of Trustees ("Board"), and the System's administrative staff) with a detailed outline of the steps, time frames, and rules regarding the processing of applications for deferring annuity payments into PROP.

B. GENERAL RULES

1. Making an election to defer annuity payments into PROP or amending or revoking that election can have adverse tax consequences in some situations, especially if the member terminated active service before the year in which he or she attained age 50 (age 55 if the Member was an employee of the System). Therefore, the election **should not** be made until the member has discussed the matter with a professional financial planner or tax advisor who is knowledgeable about the tax treatment of distributions from tax qualified plans.
2. As used in this policy and procedure, the effective date of a member's retirement is the last day of the month in which the member terminates employment with the City of Austin as a police officer (or as an employee of the System) for a member who has applied for and is eligible to begin receiving a service retirement benefit from the System.
3. A retired member's effective date for deferring annuity payments into PROP may be coincident with or later than the retired member's effective date of retirement.

4. In order to be eligible to elect to defer annuity payments into PROP, a retired member must be under the age of 69 on his or her effective date for deferring.
5. Retiring members electing to defer annuity payments into PROP may elect the RETRO DROP option and may elect to leave all or part of their RETRO DROP lump sum in the System in a PROP account. In that case, the retiring member would have one PROP account for both the RETRO DROP lump sum and the deferred annuity payments. However, it is not necessary for retiring members electing to defer annuity payments into PROP to elect the RETRO DROP option.
6. Neither a nonspouse beneficiary of a deceased member or of a deceased retired member nor an alternate payee named in a QDRO will have the right to defer annuity payments into PROP.
7. A retiring or retired member can make only one election in any calendar year to defer his or her monthly annuity (or a portion thereof) into PROP. After election a participant may elect to terminate at any time during any calendar year or amend the monthly annuity (or a portion thereof) into PROP up to twice a year.
8. A person making an election under this policy and procedure may elect to defer all or a specified portion of his or her monthly annuity into PROP. In the event that the person elects to only defer a portion of each payment into PROP, the portion so deferred may not be less than \$250.00 per month.
9. **The Act permits the Board of Trustees of the System to change this Policy and Procedure for Deferring Monthly Annuity or (\$250 minimum) into PROP at any time.**

C. PROCEDURE

1. A member who desires information concerning deferring annuity payments into PROP will be provided this information along with information he or she receives concerning retirement options.
2. A member planning to retire or a retired member may schedule an appointment with the System's administrative office to discuss deferring annuity payments into PROP.
3. During the appointment, the System's administrative staff will:
 - (a) inform the member of the contents of this policy and procedure, the application for deferring annuity payments into PROP ("Annuity Deferral Application"), the revocation form ("Revocation Form"), the distribution form ("Distribution Form"), and the beneficiary designation form ("PROP Beneficiary Form");

- (b) respond to any questions the member may have concerning the contents of this policy and procedure;
- (c) respond to any questions the member may have regarding the member's PROP benefits.

Note: Under no circumstance will the System's administrative staff provide tax advice.

4. A member electing to defer annuity payments into PROP must state in writing on the Annuity Deferral Application that he or she has been advised to consult with a professional tax advisor of the member's own choosing with regard to the possible tax consequences of electing to defer such payments and of electing to receive distributions from that account and understands that the System itself cannot provide tax advice.
5. A member must designate a beneficiary for PROP benefits by filing a completed PROP Beneficiary Form with the System's administrative office. The beneficiary for PROP benefits may be different from the beneficiary for the member's monthly annuity.
6. A member may designate a contingent beneficiary who will receive the PROP benefit in the event the first beneficiary dies prior to or within 72 hours after the death of the member.
7. The System's administrative office will review the Annuity Deferral Application and the Distribution Form (if any) in order to determine whether they were properly and fully completed.
8. Upon full completion of the Annuity Deferral Application, consideration of the application will be placed on the agenda for a Board meeting for approval.
9. Within a reasonable period of time after Board approval of the Annuity Deferral Application, the Fund's administrative office will:
 - (a) notify the member of the Board's approval of the application; and
 - (b) arrange for the separate accounting of the member's PROP account balance.
10. The System's administrative office will also respond to balance inquiries, but only if such inquiries are in writing, and only if made by a PROP participant pertaining to his or her PROP balance or the designated beneficiary of such participant if the participant is deceased.
11. Should a PROP participant desire to change his or her designated beneficiary, the participant must execute and file at the System's administrative office a revised PROP Beneficiary Form.

12. The account of a PROP participant shall be credited with earnings or losses at an annual rate established under a rule adopted by the Board prior to September 1 of each year. In establishing that rate, the Board will consider all information it considers relevant (e.g., the market value rate of return of the System's assets for recent plan years as well as for recent calendar quarters, the recent and current investment environment, and the additional administrative expenses associated with PROP). The rate as so established shall be effective for the next 12 months beginning on September 1 of the year in which it is adopted for all PROP accounts during that 12-month period.
 - (a) Investment return will be credited at the end of each month, beginning with the first full calendar month immediately following the date the member's initially deferred monthly benefit would have been payable, based on the member's account balance at the beginning of the month using a compound monthly rate equivalent to the adopted annual rate.
 - (b) The adopted annual rate for the 12 months beginning September 1, 2009 through August 31, 2010 is 4.0%.
 - (c) The compound monthly rate for the 12 months beginning September 1, 2009 through August 31, 2010 is 0.3333%.

D. REVOCATION OR AMENDMENT OF A MEMBER'S ELECTION TO DEFER

1. A member who elects to defer annuity payments into PROP may revoke or amend that election at any time before the end of the calendar year of attaining age 70-1/2 after deferring at least one monthly annuity payment into PROP. A member may not amend an election under this policy and procedure more than once in any calendar year.
2. A member may revoke his or her election to defer by filing a Revocation Form with the System's administrative office. A member may amend his or her election to defer by filing an Amendment Form with the system's administrative office.
3. Filing the Revocation Form or an Amendment Form to be effective before the member attains age 59-1/2 may result in additional federal income taxes.
4. A member who revokes his or her deferral election shall begin receiving the monthly annuity on the effective date of the revocation in the same amount he or she would have been receiving on the effective date of revocation if the election to defer the monthly annuity payments into PROP had not been made. A member who amends his or her deferral election shall begin receiving a monthly annuity on the effective date of the amendment in an amount equal to the amount he or she would have been receiving on the effective date of the amendment in the same amount he or she would have been receiving on the effective date of amendment, reduced by the amount to be deferred.

5. The filing of the Revocation Form or the Amendment Form will not take effect until at least 25 days after it has been received and accepted by the System's administrative office. Monthly annuity payments are made only on the last day of a calendar month. Therefore, the first monthly annuity payment (or revised monthly annuity payment) after a period of deferral into PROP cannot be made until the last day of a calendar month that is at least 25 days after a Revocation Form or Amendment Form has been received and accepted by the System's administrative office.
6. A member must file his or her Revocation Form before or at the same time of requesting a distribution from his or her PROP account according to Section E.
7. Once a member's Revocation Form is accepted and the revocation is effective, the member is not able to make a second election to defer his or her monthly annuity into PROP.
8. In the event of the death of the member while all or a portion of his or her monthly annuity is being deferred into PROP and if the member's spouse is the designated beneficiary of both the monthly annuity and of the PROP account, then the spouse has the option of continuing participation in PROP in place of the deceased participant.
9. In the event of the death of the participant while all or a portion of his or her monthly annuity is being deferred into PROP and if the member's spouse is not the designated beneficiary of both the monthly annuity and of the PROP account, then the receipt by the System of notification of the death shall constitute a revocation of the election to defer.
10. If a member (or spouse beneficiary after the member's death) is still deferring all or a portion of his or her monthly annuity into PROP at the end of the calendar year in which the member attains (or would have attained) age 70-1/2, then the following steps must be taken in order for the System and the participant to comply with Section 401(a)(9) of the Internal Revenue Code:
 - (a) By December 31st of the year of attaining age 70-1/2, the participant must file with the System's administrative office a Revocation Form with a revocation date of the last day of January of the following year.
 - (b) Should the participant fail to file a Revocation Form by December 31st of the year of attaining age 70-1/2, such participant shall be deemed to have filed a Revocation Form with a revocation date of the last day of January of the following year.

E. DISTRIBUTIONS FROM A MEMBER'S PROP ACCOUNT

1. A participant who elects to defer all or a portion of his or her monthly annuity into PROP may request to receive his or her entire account balance at any time, subject to the restrictions in this Section E. In addition, a participant may request a partial payment from his or her account balance up to twice a year. To request a payment, either entire or partial, the participant must file a completed Distribution Form with the System's administrative office, specifying the requested payment date, which must be the last day of a calendar month, and the requested amount. More than one partial payment may be requested on the same Distribution Form. Partial payments may be irregular in timing and for different amounts or may be at regular intervals (e.g., once a year or every six months) and for the same amount each payment.
2. A PROP participant will be allowed to revoke or amend his or her Distribution Form prospectively at any time before the date the participant attains the age of seventy and one-half (70 ½) by filing a new Distribution Form with the System's administrative office.
3. Any filing of a Distribution Form, whether an original filing or a revocation or amendment of an earlier filing, will not take effect until at least 25 days after it has been received and accepted by the System's administrative office. Distributions will be made only on the last day of a calendar month. Therefore, no distribution can be made until the last day of a calendar month that is at least 25 days after a Distribution Form has been received and accepted by the System's administrative office.
4. No PROP distribution shall be made directly to any participant who has not attained age fifty-nine and one-half (59-1/2) at the time of the distribution unless either:
 - (a) the member terminated covered employment in a calendar year in which the member had attained at least age fifty (50) (or, if the Member was an employee of the System, had attained at least age 55); OR
 - (b) the distribution is made in the form of a rollover to an Individual Retirement Account or Individual Retirement Annuity (IRA) or another eligible retirement plan or qualified plan (A ROTH IRA is not an eligible retirement plan.)
5. Any distribution of the PROP account is subject to a mandatory twenty percent (20%) withholding for federal income tax unless the distribution is transferred directly by the System to an IRA or another eligible retirement plan.
6. In the event of the death of the PROP participant before the date the account balance is completely distributed, the account balance shall be paid to the participant's designated beneficiary or, if no designated beneficiary exists, to the participant's estate. However, if the participant's spouse is the designated beneficiary, the surviving spouse has the option of continuing participation in PROP in place of the deceased participant.

7. No PROP distribution will be made to a designated beneficiary or estate of a participant until after the date of Board approval of such payment. The Board will not approve the distribution to a designated beneficiary or estate until such time as it receives sufficient documentation of the participant's death.
8. Failure to satisfy the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code ("IRC") could jeopardize the tax qualification status of the System and subjects the participant to a tax of 50% of the amount that should have been but was not paid to the participant for the year. If a participant still is participating in PROP with an account balance at the end of the calendar year in which the member attains (or would have attained) age 70½, then the following steps must be taken in order for the System and the participant to comply with Section 401(a)(9) of the IRC:
 - (a) By February 1st of the year following the year of attaining age 70½, the participant must file with the System's administrative office a new Distribution Form along with a written statement from the participant's tax advisor that the future payments requested in the Distribution Form will comply with Section 401(a)(9) of the IRC and why they will comply.
 - (b) The System will review the filing in (a) to determine whether it deems the tax advisor's written statement to be acceptable.
 - (c) If the System does not deem the tax advisor's written statement to be acceptable, the System will ask the participant to revise the Distribution Form.
 - (d) If the participant does not revise the Distribution Form to the satisfaction of the System before March 5th of the year following the year of attaining age 70½, then the participant shall be deemed to have elected to receive his or her entire account balance on March 31st of that year.
 - (e) If the System accepts the tax advisor's statement with the filing in (a), the Distribution Form becomes irrevocable March 31st of the year following the year of attaining age 70½, except the participant may override that request at any time by filing a completed Distribution Form requesting a single payment of the remaining balance.
9. Should the participant fail to file a Distribution Form before March 5th of the year following the year in which the participant attains the age of 70½, such participant shall be deemed to have elected to receive his or her entire account balance on March 31st of that year.
10. No partial payment may be requested in an amount of less than \$2,500.

Passed on Approval by the City of Austin Police Retirement System on 4/20/2010.



Peter Morin, APRS Chairman