



## Legislation Text

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### Resolution to Approve Optional Coronavirus-Related Distributions from the City's Deferred Compensation Retirement Plan

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, was signed into law on March 27, 2020, and addresses a range of economic and health-related issues resulting from the COVID-19 pandemic. One of the retirement related provisions of the Act is the creation of special rules regarding coronavirus-related distributions (CRD), which, if adopted by the City, would provide the below-outlined benefits to eligible participants of the 457(b) deferred compensation plan.

The provisions are similar to relief provided in prior years for natural disasters. To be eligible for coronavirus-related distributions, the distribution must be made to an individual who is diagnosed with COVID-19, has a spouse or dependent who is diagnosed with COVID-19, or has experienced adverse financial consequences as a result of the pandemic.

The Act provides for several exclusions from the standard IRS Code 457(b) regulations, including:

- **Delayed Federal Income Tax and Penalty Waiver.** Unless the individual elects otherwise, a CRD is included in gross income in equal amounts spread across three years. In addition, if the individual would owe the 10% early withdrawal penalty, that penalty is waived for CRDs.
- **In-service Distribution.** A plan may allow a CRD notwithstanding the restrictions that apply to in-service distributions.
- **Eligible Distributions.** The distribution must be made on or after Jan. 1, 2020, and before Dec. 31, 2020. The maximum amount for an individual is \$100,000.
- **Withholding.** The mandatory 20% federal tax withholding, and requirement to provide a 402(f) notice is waived for a CRD.
- **Repayment.** To enable participants to restore their retirement savings, the Act allows the distribution to be repaid during the three-year period beginning on the day after the date the distribution is made, back into the plan.

The Deferred Compensation Plan is administered by the Ann Arbor Employees Retirement System (AAERS), and the Plan Sponsor is the City of Ann Arbor. AAERS requests that the City Council formally approve, as the Plan Sponsor, the allowance of coronavirus-related distributions in the Plan.

Budget/Fiscal Impact: None.

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Reviewed by: Betsy Blake, Senior Assistant City Attorney

Wendy Orcutt, Executive Director, City of Ann Arbor Employees' Retirement System

Approved by: Tom Crawford, Interim City Administrator

Whereas, The COVID-19 pandemic has resulted in extreme financial hardship for some employees;

Whereas, City Staff has researched, and continues to research, actions that the City Council can take to assist in navigating this crisis;

Whereas, The Coronavirus Aid, Relief, and Economic Security (CARES) Act addresses a range of economic and health-related issues resulting from the COVID-19 pandemic;

Whereas, One of the retirement related provisions of the CARES Act is the creation of a coronavirus-related distribution;

Whereas, The distribution must be made to an individual who is diagnosed with COVID-19, has a spouse or dependent who is diagnosed with COVID-19, or has experienced adverse financial consequences as a result of the COVID-19 pandemic; and

Whereas, The City Council desires to allow coronavirus-related distributions within the deferred compensation plan for employees that self-certify that they meet the outlined qualifications;

RESOLVED, That City Council approve the allowance of coronavirus-related distributions in the 457 (b) Deferred Compensation Plan (Plan #300456) to the extent allowed by the Coronavirus Aid, Relief, and Economic Security (CARES) Act; and

RESOLVED, That the City Administrator be authorized to take all necessary administrative actions to implement this resolution.