



Legislation Details (With Text)

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Title: A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The City Attorney To File A Civil Action Against The Employees Retirement Board (The "Board") For Granting Pensions To Individuals Deemed Vested Solely As A Result Of The Ordinance Freezing The Prior Plan In 2011.
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Date	Ver.	Action By	Action	Result
7/8/2015	1	Regular City Commission Meeting	adopt	Pass

A Resolution Of The City Commission Of The City Of Hollywood, Florida, Authorizing The City Attorney To File A Civil Action Against The Employees Retirement Board (The "Board") For Granting Pensions To Individuals Deemed Vested Solely As A Result Of The Ordinance Freezing The Prior Plan In 2011.

Staff Recommends: Approval of the attached resolution.

Explanation:

On September 7, 2011, the City Commission adopted Ordinance No. O-2011-25 (the "Ordinance"), which froze the then existing Employees Pension Plan as of September 30, 2011 but only as to plan members who were paid out of the City's general fund. The Ordinance contains new language in Section 33.025(A)(5) that says that all general fund members will be vested in benefits accrued to September 30, 2011 and payable under the terms and conditions of the plan then in effect.

Since the adoption of the Ordinance, the Employees Retirement Board (the "Board") has administered the plan by treating all general fund members, including those who were not vested under the plan as it existed on September 30, 2011, as vested in the benefits that they accrued up to September 30, 2011. The attorney for the Board has approved the manner in which the Board has administered the Ordinance.

The City Attorney's Office has researched the issues raised by the Board's actions and has determined that (i) technically, the freezing of a pension plan terminates the plan and (ii) the Internal Revenue Code requires a qualified defined benefit pension plan to provide that upon its termination, the rights of all affected employees to benefits accrued to the date of such termination are

nonforfeitable.

The Florida Governmental Conflict Resolution Act (the “Act”) creates a mandatory governmental conflict resolution procedure that must be complied with prior to the filing of a civil action by one governmental entity against another governmental entity, unless the first government entity, by a three-fourths vote of its governing body, finds that an immediate danger to the health, safety, or welfare of the public requires immediate action, or that significant legal rights will be compromised if a court proceeding does not take place before the provisions of the Act are complied with.

Recommended for inclusion on the agenda by:

Wazir Ishmael, PhD, City Manager

Jeffrey P. Sheffel, City Attorney