



Legislation Details (With Text)

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Title: A Resolution Of The City Commission Of The City Of Hollywood, Florida, Regarding Supplemental Distributions Made By The City's Pension Boards; Finding An Immediate Danger Or The Compromise Of Significant Legal Rights If A Court Proceeding Does Not Take Place Before The Florida Governmental Conflict Resolution Act Is Complied With.

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Date	Ver.	Action By	Action	Result
8/29/2018	1	Regular City Commission Meeting	adopt	Pass

A Resolution Of The City Commission Of The City Of Hollywood, Florida, Regarding Supplemental Distributions Made By The City's Pension Boards; Finding An Immediate Danger Or The Compromise Of Significant Legal Rights If A Court Proceeding Does Not Take Place Before The Florida Governmental Conflict Resolution Act Is Complied With.

Staff Recommends: Approval of the Resolution.

Explanation:

Each of the defined benefit pension plans sponsored by the City of Hollywood - general employees, fire and police - provides for the pension board to make a supplemental distribution to eligible retirees when the rate of investment return on the assets of the pension fund exceeds a certain percentage. Supplemental distributions are governed not only by the pension plans but also by Florida Statute Section 112.61. Each of the City's pension boards (collectively, the "Boards") has made one or more supplemental distributions totaling millions of dollars which, in the opinion of the City Attorney, violated Section 112.61 and/or the applicable pension plan. Those supplemental distributions have had the effect of increasing, by millions of dollars, the City's annual required contributions to the pension plans.

On July 8, 2015, the City Commission adopted Resolution No. R-2015-214, which authorized the filing of one or more civil actions against the Boards and any other appropriate parties to enforce the City's rights with respect to supplemental distributions made by the Boards. Florida Statutes Chapter 164, known as the Florida Governmental Conflict Resolution Act (the "Act"), creates lengthy procedures (the "Chapter 164 Procedures") 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 Chapter 164 procedures are complied with. Resolution No. R-2015-214 contains the findings that are necessary to proceed immediately to a civil action without following the Chapter 164 Procedures.

Resolution No. R-2015-214 was approved by a 4-3 vote, but six affirmative votes of the City Commission were required to meet the three-fourths vote required by the Act. Pursuant to Resolution No. R-2015-214, the City filed a civil action (the "Action") against the Boards, but the Action was abated by court order and remains abated "until the procedural requirements of the Act have been exhausted."

Although the City and the Boards have attempted to follow the Chapter 164 Procedures, it would likely take months, or even a year or more, to complete them. City staff believes it would be appropriate for the City Commission to make again the findings that were made in Resolution No. R-2015-214. The City Attorney believes that if the City Commission makes the required findings by a 6-1 or 7-0 vote before the Chapter 164 Procedures are completed, a motion by the City to lift the order abating the Action will be granted, the Chapter 164 Procedures will not have to be completed, and the City will be able to move forward with the Action.

Recommended for inclusion on the agenda by:

Douglas R. Gonzales, City Attorney

Dr. Wazir A. Ishmael, City Manager