



## Legislation Text

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**File #: 12-2118, Version: 1**

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Resolution of the City Commission of the City of Coral Gables, Florida, relating to the Retirement System for City employees; reviewing the Retirement Board's decision to grant a cost of living increase for retirees effective January 1, 2013; finding the Retirement Board's action inconsistent with Section 112.61, Florida Statutes; modifying the Retirement Board's action; providing for full force and effectiveness; providing for repeal of conflicting Resolutions; and providing an effective date.

Section 112.61, Florida Statutes establishes minimum standards for the operation and funding of public employee retirement systems. The state statute applies to all retirement plans supported in whole or part by public funds, including local government retirement plans like the Coral Gables Retirement Plan for City Employees. Section 112.61 requires that public retirement systems be managed, administered, operated and funded in such a manner as to maximize the protection of public employee retirement benefits, such that the pension liabilities attributable to the benefits promised public employees be fairly, orderly, and equitably funded by current, as well as future, taxpayers. Specifically, the statute prohibits the use any procedure, methodology, or assumptions which effectively transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by current taxpayers.

Section 112.61 expressly states that "actuarial experience may only be used to fund additional benefits when the present value of the benefits does not exceed the net actuarial experience accumulated from all sources of gains and losses." In essence, this means a provision for funding retirement benefits must be made at the time the benefits are adopted, and actuarial experience may only be used to fund additional benefits when "the net actuarial experience accumulated from all sources of gains and losses" is sufficient to fund the additional benefit.

Section 112.62, Florida Statutes expressly states that the pension funding provisions of state law are applicable to any and all units of government, including municipal governments, which participate in, operate, or administer a retirement system for public employees, funded in whole or in part by public funds; and, to the extent there are conflicts, state law prevails over local ordinances relating to such retirement systems or plans.

According to the plan actuary, the Coral Gables Retirement Plan had a cumulative net actuarial loss of \$82.8 million as of September 30, 2011. The Plan has unfunded actuarial accrued liabilities in excess of \$200 million.

Section 50-230(c) of the Retirement Plan provides for a cost of living increase effective January 1 of each year, if the "market value rate of return (as determined by the actuary) on the assets of the retirement system determined from October 1 of the previous year to September 30 of the current year is greater than or equal to ten percent."

On November 1, 2012, the Retirement Plan actuary reported that the return on assets for October 1, 2011 through September 30, 2012, was calculated to be 16.7%. Because this return exceeds 10 percent, the Plan provides for a cost of living increase (COLA) which would become effective on January 1, 2013. The plan actuary calculated the amount of the cost of living increase, if paid, to be 5.95%. If paid, the increase would be provided to all members who have been receiving monthly benefits for all of 2012. If paid, the COLA would increase the unfunded actuarial accrued liability of the Plan by more than \$20 million, and increase the City's

annual required contribution by \$1.6 million each year for 30 years. However, the plan actuary has questioned whether the current COLA provision complies with the state law requiring such additional benefits to be granted only when “the net actuarial experience accumulated from all sources of gains and losses” is sufficient to fund the benefit.

The City’s actuary has stated that section 112.61, Florida Statutes applies to the pension COLA provision, and that a COLA may be granted only when the cumulative net actuarial experience of the Plan is sufficient to fund the benefit, or if the COLA is expressly approved by the City Commission and a provision for funding the benefit is made at that time.

Despite the concerns expressed by the City actuary and plan actuary, the Retirement Board voted to approve the 5.95% cost of living increase on November 8, 2012.

On November 27, 2012, the City, through its actuary, sought clarification from the Florida Division of Retirement as to how section 112.61 of the Florida Statutes would apply to the COLA provision in the City retirement plan. Mr. Joseph Edmonds, an actuary with the Division of Retirement, Bureau of Local Retirement Systems, confirmed that (1) in the event of conflict between existing laws and local ordinances, the provisions of section 112.61 of the Florida Statutes prevail; (2) promised benefits must be part of the funding requirement of the plan at the time the benefits were promised; and (3) when cumulative net actuarial experience is negative, such that there are no surplus funds available, additional benefits cannot be funded from accumulated actuarial experience. (See attached letter dated November 27, 2012 from Michael J. Tierney to Joseph Edmonds, and Mr. Edmond’s email response dated November 28, 2012.)

Several other Florida cities, including Hollywood, Sunrise and Vero Beach, have pension COLAs based on investment gains similar to the Coral Gables pension COLA. Although the investment gains in each of these plans for the year ending September 30, 2012 were sufficient to trigger a cost of living increase, no COLA was granted by any of these plans because they also had a net cumulative actuarial loss, and thus, could not implement the additional benefit under section 112.61, Florida Statutes.

Section 50-93, of the City’s Code provides that the City Commission may review and may, with cause, amend or modify any decision by the Retirement Board.

The attached Resolution reverses the Retirement Board’s decision to grant the 5.95% cost of living increase, based on the fact that the Retirement Plan has experienced a cumulative net actuarial loss. Because the Plan has a cumulative net actuarial loss, section 112.61, Florida Statutes, provides that actuarial experience can not be used to fund the COLA increase. Granting the COLA under these circumstances would be inconsistent with section 112.61, Florida Statutes.