



Legislation Text

File #: 15-3634, Version: 2

An Ordinance amending Chapter 50 of the “Code of The City of Coral Gables,” entitled “Pensions,” amending Section 50-230, Normal Retirement Income; and providing for repealer provision, severability clause, codification, and providing for an effective date. *(This Ordinance does not modify pension benefits. It only serves to clarify the existing language to make it consistent with Florida Statutes, City Attorney interpretation, and current practices.)* (Passed on First Reading January 28, 2015).

When the pension COLA was originally enacted in 1989, an assumption was made that the COLA would be paid when there were investment gains in excess of 10% and cumulative actuarial gains in the pension fund sufficient to fund the COLA. This intent is demonstrated by the fact that no provision was made to pre-fund the COLA through increased City contributions at the time it was enacted, or any time since. This Ordinance serves to clarify the existing language to make it consistent with Florida Statutes, City Attorney interpretation, and current practices.

When the pension COLA was originally enacted, the actuarial impact statement addressing the plan changes did not treat the pension COLA as an additional cost that required increased contributions. It was assumed that the COLA would be paid from excess funds created in addition to what was needed to meet then current contribution requirements, so no advance funding was required. Implicit in this assumption is that future contributions would not increase based on diverting a portion of asset returns for COLA. But if contributions had previously increased due to asset shortfalls, and all asset returns were not used to replenish those shortfalls before any funds were diverted for COLA, then the impact statement would have identified this and would have estimated a contribution increase (advance funded) for this treatment. Funds could only be removed from the excess earnings when there were investment gains in excess of 10% and the cumulative actuarial gains were greater than cumulative actuarial losses by the amount of the formula COLA amount. If the cumulative net gains were not sufficient, the formula COLA would be reduced so as not to exceed this net excess and contributions would not increase.

Florida law requires that pension benefits be funded on a sound actuarial basis; i.e., that funding be provided at the time a benefit is approved. The law also provides that additional benefits (benefits that are not pre-funded) may be paid for by actuarial gains, but if this method is used the cumulative net actuarial experience from all sources of gains and losses must be sufficient to fund the benefit. See section 112.61, Florida Statutes, which took effect on July 1, 1994. Section 112.62 of the Florida Statutes provides that the pension funding requirements in Part VII, Chapter 112, Florida Statutes, which includes this provision, supplement and, to the extent of any conflict, prevail over a local pension ordinance. Accordingly, the City Attorney has opined pursuant to section 2-201(e)(8) of the City Code that this provision is already incorporated into the City’s pension ordinance by operation of state law. So if an additional benefit costs \$20 million, the pension fund must have cumulative gains of at least \$20 million at the time the benefit is paid. The Retirement Plan actuary has determined that the plan had a cumulative net actuarial loss of more than \$111 million as of September 30, 2012, and that the cumulative loss was even greater as of September 30, 2013.

The Florida Division of Retirement summarized the above pension funding requirements in its letter to the City Attorney of March 21, 2013. The Division concluded that since the net actuarial experience of the Coral Gables Retirement Plan accumulated from all sources of gains and losses is negative, pursuant to section 112.61,

Florida Statutes, the cost of the COLA benefit could not be paid from actuarial experience. The actuary for the Coral Gables Retirement Plan recently determined that pre-funding the COLA benefit would increase the liabilities of the Plan by more than \$70 million, and increase the annual required contribution by \$6 million per year for the next 30 years. The plan actuary has also requested clarification as to when the cumulative actuarial experience should begin to be applied.

This ordinance clarifies the COLA provision in the Coral Gables Retirement Plan to incorporate the funding requirements of state law. The ordinance provides that in order for a COLA to be paid, investment return must exceed 10% and the present value of the COLA does not exceed the net actuarial experience accumulated from all sources of gains and losses as provided in section 112.61, Florida Statutes, effective from July 1, 1994 forward. The ordinance is consistent with State law as well as the City Attorney's interpretation of the City Code, as reflected in his October 25, 2013 memorandum to the City Commission.