

RESOLUTION NO. 12 -06

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA SUPPORTING POLICE OFFICER AND FIREFIGHTER DISABILITY PRESUMPTION REFORMS TO MAKE PENSION PLAN AND WORKERS' COMPENATION BENEFITS SUSTAINABLE FOR CURRENT AND FUTURE POLICE OFFICERS AND FIREFIGHTERS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Doral deeply honors and respects the services provided and sacrifices made by police officers and firefighters, and desires to provide current and future police officers and firefighters with a pension and workers' compensation system that is sustainable. The City of Doral also desires to protect local taxpayers from unsustainable and unsound pension and workers' compensation expenses. The City of Doral supports responsible reforms that protect pensions and workers' compensation benefits so they will be there for future generations of police officers and firefighters and safeguard taxpayer dollars; and

WHEREAS, the Florida Legislature has provided that health conditions relating to heart disease, hypertension or tuberculosis suffered by a firefighter, law enforcement officer or correctional officer are presumed to be job related. These "disability presumptions" are applicable to both workers' compensation and disability pension claims and have introduced significant opportunities for abuse in the workers' compensation and police and firefighter pension systems. Courts have interpreted the presumption laws so favorably toward these employees that cities and other government employers basically cannot overcome the presumption and show the health condition was not work related; and

WHEREAS, a Task Force on Public Employee Disability Presumptions is currently meeting to make findings and recommendations to the Legislature. Changes to disability presumption laws being considered by the Task Force include requiring an employee to meet age and employment requirements, allowing a presumption to be overcome by a preponderance of evidence, and allowing certain individual risk factors to be considered when applying the presumption, such as tobacco use, weight/diet, genetics and lifestyle choices. All of these proposals are designed to bring a fairer balance to the application of presumption laws; and

WHEREAS, it is important to remember that just because an individual does not have a disability presumption does NOT mean they cannot make a workers' compensation or disability pension claim. Rather, it just means that the individual must show the health condition is work related, just like every other employee who makes a workers' compensation or pension claim; and

WHEREAS, HB 365 by Representative Fred Costello and SB 910 by Senator Alan Hays have been filed for consideration during the 2012 legislative session. HB 365 and SB 910 would responsibly promote increased police and firefighter pension and workers' compensation stability, security and sustainability by making the following changes to current state law:

- 1. Collective Bargaining Over Retirement Benefits and Revenues:** Allow cities and police and firefighter unions to collectively bargain the retirement benefits provided pursuant to, and the use of insurance premium tax revenues provided under, Chapters 175 or 185, Florida Statutes.
- 2. Alternative Retirement Plans:** Allow cities to unilaterally transition to a defined contribution plan, the Florida Retirement System, or another retirement program for police and firefighters and continue to receive insurance premium tax revenues to pay for the retirement expenses.
- 3. Boards of Trustees Fiscal Transparency and Accountability:** Require statutorily created police and firefighter pension boards of trustees to adopt and operate under an administrative expense budget, and require a detailed accounting of pension boards of trustees' expenses.
- 4. Fiscally Responsible Retirement Plan Termination:** Require police and firefighter pension boards of trustees and cities to work together for a fiscally responsible distribution of plan assets if a city must terminate its police or firefighter retirement plan.
- 5. Clarify Police Overtime Used for Retirement Purposes:** Clarify (due to an incorrect interpretation by the Division of Retirement of a law passed in 2011) that police officers may use up to 300 hours per year in overtime compensation when calculating retirement benefits as provided in the plan or collective bargaining agreement, and that police officers are not entitled to the use of a minimum of 300 hours per year in overtime compensation for retirement purposes.
- 6. Disability Presumptions:** Reform current statutory disability presumptions for firefighters, law enforcement officers and correctional officers relating to health conditions caused by tuberculosis, heart disease or hypertension to require the employee to meet age and employment requirements, allow the presumption to be overcome by a preponderance of evidence, and allow certain individual risk factors to be considered when applying the presumption.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:

Section 1. That the City of Doral hereby supports police and firefighter pension and disability presumption reforms in general, and as more specifically provided in HB 365 and SB 910 for the 2012 Florida legislative session.

Section 2. That the City of Doral hereby requests the Florida Legislature to amend current statutory disability presumptions for firefighters, law enforcement officers and correctional officers relating to health conditions caused by tuberculosis, heart disease or hypertension to require the employee to meet age and employment requirements, allow the presumption to be overcome by a preponderance of evidence, and allow certain individual risk factors to be considered when applying the presumption.

Section 3. That the City of Doral urges the Florida Legislature to pass and the Governor to approve the above responsible reform recommendations relating to police and firefighter pension plans and disability presumptions in the 2012 legislative session.

Section 4. That the City of Doral Clerk is directed to transmit a copy of this resolution to Governor Rick Scott, the Florida Legislature, and the Florida League of Cities, Inc.

Section 5. This Resolution shall be effective upon adoption.

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The foregoing Resolution was offered by Councilmember Boria who moved its adoption. The motion was seconded by Vice Mayor DiPietro and upon being put to a vote, the vote was as follows:

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| Mayor Juan Carlos Bermudez | Yes |
| Vice Mayor Michael DiPietro | Yes |
| Councilman Luigi Boria | Yes |
| Councilman Pete Cabrera | Yes |
| Councilwoman Ana Maria Rodriguez | Yes |

PASSED and ADOPTED this 6th day of January, 2012.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE CITY OF DORAL:



JIMMY MORALES, CITY ATTORNEY