

ORDINANCE NO. O-2011-25

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING SECTION 33.025 OF THE CODE OF ORDINANCES; FREEZING THE EMPLOYEES' RETIREMENT PLAN FOR GENERAL FUND EMPLOYEES EFFECTIVE SEPTEMBER 30, 2011 AND CREATING A NEW EMPLOYEES' RETIREMENT PLAN FOR GENERAL FUND EMPLOYEES EFFECTIVE OCTOBER 1, 2011.

WHEREAS, on May 18, 2011, the City Commission of the City of Hollywood, Florida, declared a financial urgency for fiscal year 2012 pursuant to Florida Statute Section 447.4095; and

WHEREAS, the City Commission has determined that it is necessary to address the financial urgency by amending the Employees' Retirement Plan as set forth in this ordinance; and

WHEREAS, Section 33.031 of the Code of Ordinances provides, as one of two methods of amending the Employees' Retirement Plan, a majority vote of those qualified electors of the City voting in a referendum election called for such purpose by the City Commission; and

WHEREAS, the City Commission has called a referendum for the purpose of amending the Employees' Retirement Plan as set forth in this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Section 33.025 of the Code of Ordinances is hereby amended to read as follows:

TITLE III: ADMINISTRATION

* * *

CHAPTER 33: CITY EMPLOYEES

* * *

(Coding: Words and figures underlined are additions to existing law; words and figures ~~struck through~~ are deletions.)

EMPLOYEES' RETIREMENT FUND

§ 33.025 PENSIONS AND RETIREMENT.

(A) *Establishment and purpose.*

* * *

(5) The benefit structure in effect on September 30, 2011 is frozen at midnight on that date for general fund members. All general fund members will be vested in benefits accrued to that date and payable under the terms and conditions of plan provisions then in effect. No additional benefits of any kind shall accrue to general fund members under the frozen benefit structure. Effective October 1, 2011, general fund members are subject to a new benefit structure applicable to future service as set forth in this section 33.025.

(a) Any member who, on or after October 1, 2011, transfers between a position in which he or she is a general fund member and a position in which he or she is not a general fund member shall be subject to the benefit structure applicable to general fund members for all periods of time during which he or she is a general fund member and shall be subject to the benefit structure applicable to members who are not general fund members for all periods of time during which he or she is not a general fund member.

(b) Notwithstanding any provision contained in this section 33.025 to the contrary, for any general fund member who becomes eligible to retire with normal retirement benefits on or before September 30, 2011 and is so eligible on September 30, 2011, the benefit structure in effect on September 30, 2011 shall remain in effect beyond September 30, 2011 and shall not be frozen; provided, however, that any such member who does not enter the DROP on or before September 30, 2011 shall not be eligible to participate in the DROP.

(B) *Definitions.* For purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

* * *

AVERAGE FINAL COMPENSATION. For a member hired prior to July 15, 2009, means monthly average compensation for the highest 78 consecutive bi-weekly pay periods of credited service. Payments for accumulated sick and annual leave received by such a member following separation from employment and included in compensation in accordance with the definition of *COMPENSATION* below, shall be deemed to have been received in the final pay period for the purpose of this definition. *AVERAGE FINAL COMPENSATION* for members hired on or after July 15, 2009 is set

forth in division (AA) below, and AVERAGE FINAL COMPENSATION for members hired on or after October 1, 2011 is set forth in division (CC) below. The definition of AVERAGE FINAL COMPENSATION set forth above is frozen at midnight on September 30, 2011 for general fund members. Under the benefit structure effective October 1, 2011 for general fund members, a definition of AVERAGE FINAL COMPENSATION is set forth in divisions (BB) below.

* * *

COMPENSATION. A member's gross wages received from the city, including overtime and payments for accumulated annual leave and accumulated sick leave, except as provided below:

* * *

(e) Compensation for members hired on or after July 15, 2009 but prior to October 1, 2011 is set forth in division (AA) below, and compensation for members hired on or after October 1, 2011 is set forth in division (CC) below.

(f) Employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the rules of the Internal Revenue Service Code shall be included in compensation for retirement purposes. Compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code, adjusted in accordance with U.S. Treasury Department regulations, shall be disregarded.

The definition of compensation set forth above is frozen at midnight on September 30, 2011 for general fund members. Under the benefit structure effective October 1, 2011 for general fund members, a definition of compensation for general fund members is set forth in division (BB).

* * *

GENERAL FUND MEMBER. Any member paid out of the city's general fund and/or other city funds, with the exception of the water and sewer utility, stormwater utility, parking and sanitation funds.

* * *

(E) *Normal retirement date.*

(1) A member hired prior to July 15, 2009 who separates from city employment on or after July 1, 1999 may retire with normal retirement benefits upon attaining 25 years of credited service regardless of age, or upon reaching age 55 with at least five years of credited service, subject, however, to the additional provisions

applicable to such a member under the benefit structure effective October 1, 2011 as specified in division (BB) below.

* * *

(4) The normal retirement date for members hired on or after July 15, 2009 but prior to October 1, 2011 is specified in division (AA) below.

(5) The normal retirement date for members hired on or after October 1, 2011 is specified in division (CC) below.

(F) *Normal retirement benefit.*

(1) The retirement benefit payable to a member hired prior to July 15, 2009 who separates from city employment on or after October 1, 1998 shall be 3% of average final compensation multiplied by years of credited service, up to a maximum of 27 years of credited service and a maximum pension rate of 81%. Such benefit shall be payable on the member's normal retirement date and separation from city employment. The normal retirement benefit specified in this paragraph is frozen at midnight on September 30, 2011 for general fund members. The normal retirement benefit for general fund members hired prior to July 15, 2009, under the benefit structure effective October 1, 2011, is specified in division (BB) below.

* * *

(3) The normal retirement benefit for members hired on or after July 15, 2009 but prior to October 1, 2011 is specified in division (AA) below.

(4) The normal retirement benefit for members hired on or after October 1, 2011 is specified in division (CC) below.

(G) *Deferred vested retirement.*

(1) Any member hired prior to July 15, 2009, irrespective of age, who separates from city employment on or after July 1, 1999 after having completed at least five years of credited service prior to October 1, 2011 and does not receive a refund of contributions, and any member hired prior to July 15, 2009, irrespective of age, who separates from city employment on or after October 1, 2011 after having completed at least five years of credited service consisting of any combination of credited service (i) as a member of any kind prior to October 1, 2011 and (ii) as a member other than a general fund member on or after October 1, 2011, shall have the right to receive a service retirement benefit beginning at age 55 based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date.

(2) Any member, irrespective of age, who separated from city employment before July 1, 1999 after having completed at least ten years of credited service and did not receive a refund of contributions shall have the right to receive a service retirement benefit beginning at age 62, based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date.

(3) Deferred vested retirement for members hired on or after July 15, 2009 but prior to October 1, 2011 is set forth in division (AA) below.

(4) Deferred vested retirement for members hired on or after October 1, 2011 is set forth in division (CC) below.

* * *

(J) *Benefit Adjustments.*

* * *

(5) For members hired prior to July 15, 2009 who retire on or after August 17, 2009 without entering the DROP, a 2% COLA shall be payable annually commencing three years after retirement benefits begin. For members hired prior to July 15, 2009 who enter the DROP on or after August 17, 2009, a 2% COLA will be payable annually, commencing the later of three years after retirement benefits begin or one year after separation from employment following participation in the DROP. The benefit provided in this paragraph is frozen as of midnight on September 30, 2011. Under the benefit structure effective October 1, 2011, no COLA shall be payable.

* * *

(L) *Disability retirement.*

* * *

(2) Except as set forth in division (3) below, upon total and permanent disability of a member hired prior to July 15, 2009 having at least five years of credited service, from causes other than the performance of an act of duty as an employee of the city, resulting in the inability of the member to perform the specific duties of his or her position in the service of the city, such member shall be entitled to a disability retirement benefit equal in rate to that provided for service retirement, but not less than 20% of average salary. Based on the available medical information, the Human Resources Director shall make the final determination regarding the ability of the member to perform the specific duties of his or her position. The eligibility of members

hired on or after July 15, 2009 but prior to October 1, 2011 for non-duty disability benefits is specified in division (AA) below. The eligibility of members hired on or after October 1, 2011 for non-duty disability benefits is specified in division (CC) below. If a general fund member hired prior to October 1, 2011 is entitled to a non-duty disability benefit and the date of disability, defined as the date the member becomes disabled, as opposed to the date on which the determination of disability is made, is on or after October 1, 2011, the amount of the non-duty disability benefit to which the member is entitled shall equal the sum of (i) a benefit for the period prior to October 1, 2011 calculated in accordance with the benefit structure frozen as of September 30, 2011, and (ii) a benefit for the period on and after October 1, 2011 calculated in accordance with the benefit structure effective October 1, 2011.

* * *

(O) *Financing.*

(1) The Fund shall be financed in accordance with actuarial requirements by the following revenues:

(a) Contributions by employees hired prior to July 15, 2009 of 7% of compensation prior to October 1, 2009, 8% of compensation as of October 1, 2009 and 9% of compensation as of October 1, 2010, to be deducted from members' pay at regular payroll periods. Contributions deducted from a member's pay, including contributions deducted from a member's pay to purchase credited service in accordance with division (D)(6) and (7) above, shall be designated as employer contributions pursuant to section 414(h) of the Internal Revenue Code. Such designation is contingent upon the contributions being excluded from the member's gross income for federal income tax purposes in accordance with the code and applicable regulations. For all other purposes of the plan, such contributions shall be considered to be member contributions. A member's election to purchase credited service through payroll deduction in accordance with division (D)(6) and (7) above shall be irrevocable. The employee contributions for members hired on or after July 15, 2009 but prior to October 1, 2011 is specified in division (AA) below. The employee contributions for members hired on or after October 1, 2011 is specified in division (CC) below.

* * *

(AA) *Benefits and employee contributions for members hired on or after July 15, 2009 but prior to October 1, 2011.*

(1) Notwithstanding any other provision of the plan, members hired on or after July 15, 2009 but prior to October 1, 2011 shall receive the same retirement benefits as members hired prior to that date, subject to the following except as follows:

(a) The normal retirement dates for general fund members shall be age 65 or older with seven years of credited service; age 62 or older with 25 years of credited service; or age 60 or older with 30 years of credited service; the normal retirement dates for members who are not general fund members shall be age 57 or older with 25 years of credited service; age 60 or older with seven years of credited service; or 30 years of credited service, regardless of age;

(b) The vesting period shall be seven years of credited service;

(c) Upon reaching the normal retirement date, a general fund member is entitled to a normal retirement benefit of (i) for 2.5% of average final compensation for each year of credited service earned prior to October 1, 2011 and (ii) 2.0% of average final compensation, up to a maximum benefit of 76% (81% less two times 2.5%) 84% of average final compensation for each year of credited service earned on or after October 1, 2011 (see paragraph (d) below for different definitions of average final compensation to be applied to (i) and (ii) above);

(d) Average final compensation shall be based on the member's highest 104 consecutive bi-weekly pay periods of credited service; provided, however, that under the benefit structure effective October 1, 2011 for general fund members, average final compensation shall be based on the member's highest 130 consecutive bi-weekly pay periods of the last 260 bi-weekly pay periods of credited service;

(e) Compensation shall include only the member's base pay, which includes longevity pay, but no other payments shall be included;

(f) Eligibility for non-duty disability benefits shall commence upon attaining seven years of credited service;

(g) A member who separates from city employment prior to his or her normal retirement date after having completed at least seven years of credited service and does not receive a refund of contributions shall have the right to receive a service retirement benefit beginning at age 60 based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date; provided, however, that general fund members shall have their years of credited service and average final compensation frozen under the benefit structure in effect as of September 30, 2011; also provided, however, that under the benefit structure effective October 1, 2011 for general fund members, the right to receive a service retirement benefit under that benefit structure shall begin at age 65.

(h) The member shall not be eligible to participate in the DROP;

(i) The member shall not be eligible for a COLA.

(2) Notwithstanding any other provision of the plan, members hired on or after July 15, 2009 shall contribute 9% of their compensation to the plan.

(BB) Benefits for members hired prior to July 15, 2009.

(1) Members hired prior to July 15, 2009 shall continue to receive the same retirement benefits under the benefit structure effective October 1, 2011 that they received immediately prior to October 1, 2011, subject to the following:

(a) Notwithstanding any provision contained in this section 33.025 to the contrary, for any general fund member who becomes eligible to retire with normal retirement benefits on or before September 30, 2011 and is so eligible on September 30, 2011, the benefit structure in effect on September 30, 2011 shall remain in effect beyond September 30, 2011 and shall not be frozen; provided, however, that any such member who does not apply, on or before September 30, 2011, to enter the DROP shall not be eligible to participate in the DROP.

(b) Under the benefit structure effective October 1, 2011, the normal retirement date for a general fund member with less than ten years of credited service as of September 30, 2011 shall be age 65 or older with seven years of credited service; age 62 or older with 25 years of credited service; or age 60 or older with 30 years of credited service; provided, however, that the normal retirement date of a general fund member with ten or more years of credited service as of September 30, 2011 shall remain the same as it was on September 30, 2011.

(c) The vesting period for general fund employees who have not vested as of September 30, 2011 shall be seven years of credited service;

(d) A general fund member is entitled to a normal retirement benefit of 2.0% of average final compensation for credited service earned on or after October 1, 2011, up to a maximum benefit equal to the net result of subtracting from 8.1% the product of 3.0% times the number of years of credited service earned up to September 30, 2011.

(e) Under the benefit structure effective October 1, 2011 for general fund members, average final compensation shall be based on the member's highest 130 consecutive bi-weekly pay periods of the last 260 bi-weekly pay periods of credited service.

(f) Under the benefit structure effective October 1, 2011 for general fund members, compensation shall include only the member's base pay, which includes longevity pay, but no other payments shall be included.

(g) Eligibility for non-duty disability benefits shall commence upon attaining seven years of credited service;

(h) A member who separates from city employment prior to his or her normal retirement date after having completed at least five years of credited service and does not receive a refund of contributions shall have the right to receive a service retirement benefit beginning at age 55 based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date; provided, however, that general fund members who are not eligible for normal retirement as of September 30, 2011 shall have their years of credited service and average final compensation frozen under the benefit structure in effect as of September 30, 2011; also provided however that under the benefit structure effective October 1, 2011 for general fund members, the right to receive a service retirement benefit under that benefit structure shall begin at age 65.

(i) A member who is eligible to enter the DROP prior to October 1, 2011 but does not apply, prior to October 1, 2011, to enter the DROP shall not be eligible to participate in the DROP.

(j) A general fund member's entitlement to a benefit in the form of a COLA shall be frozen as of midnight on September 30, 2011. Under the benefit structure effective October 1, 2011, a general fund member shall not be eligible for a COLA.

(2) Notwithstanding any other provision of the plan, members hired prior to July 15, 2009 shall contribute 9% of their compensation to the plan.

(CC) *Benefits for members hired after the plan freeze.*

(i) Members hired on or after October 1, 2011 shall receive the same retirement benefits as members hired on or after July 15, 2009 but prior to October 1, 2011, subject to the following:

(a) The normal retirement date for a general fund member shall be age 65 or older with seven years of credited service; age 62 or older with 25 years of credited service; or age 60 or older with 30 years of credited service.

(b) The vesting period shall be seven years of credited service;

(c) Upon reaching his/her normal retirement date, a general fund member is entitled to a normal retirement benefit of 2.0% of average final compensation for each year of credited service, up to a maximum benefit of 81% of average final compensation;

(d) Average final compensation for a general fund member shall be based on the highest 130 consecutive bi-weekly pay periods of the last 260 bi-weekly pay periods of credited service.

(e) Compensation shall include only the member's base pay, which includes longevity pay, but no other payments shall be included;

(f) Eligibility for non-duty disability benefits shall commence upon attaining seven years of credited service;

(g) A general fund member who separates from city employment prior to his or her normal retirement date after having completed at least seven years of credited service and does not receive a refund of contributions shall have the right to receive a service retirement benefit beginning at age 65 based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date.

(h) The member shall not be eligible to participate in the DROP;

(i) The member shall not be eligible for a COLA.

(2) Notwithstanding any other provision of the plan, members hired on or after October 1, 2009 shall contribute 9% of their compensation to the plan.

Section 2: That it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 3. That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 4: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

ORDINANCE FREEZING EMPLOYEES' RETIREMENT PLAN

Section 5: That this ordinance shall be in full force and effect immediately upon approval by:

A) A "majority plus one" vote of the City Commission and 50% plus one of the voting members of the Employees' Retirement Plan; or

B) A majority vote of those qualified electors of the City voting in a referendum election called for such purpose by the City Commission.

ADVERTISED on Aug 26, 2011.


PASSED on first reading this 18 day of July, 2011.

PASSED AND ADOPTED on second reading this 7 day of Sept, 2011.



PETER BOBER, MAYOR

ATTEST:



PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY

for the use and reliance of the

City of Hollywood, Florida only:



JEFFREY P. SHEFFEL, CITY ATTORNEY

9/8/11pac