

COMMISSION MEMORANDUM

TO: Mayor Steven Meiner and Members of the City Commission

FROM: Rickelle Williams, Interim City Manager *RW*

DATE: June 26, 2024

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 78 OF THE MIAMI BEACH CITY CODE, ENTITLED "PERSONNEL," BY CREATING ARTICLE IV THEREOF, ENTITLED "UNCLASSIFIED EMPLOYEES' LEAVE," TO CODIFY AS PART OF THE CITY CODE AND AMEND THE CITY'S EMPLOYEES' LEAVE ORDINANCE (NO. 1613) FOR CLARITY AND EASE OF REFERENCE, TO DELETE AND/OR REVISE OUTDATED PROVISIONS, CREATE NEW SECTIONS, AND MAKE SUBSTANTIVE AMENDMENTS AS FOLLOWS: SECTION 78-181, ENTITLED "DEFINITIONS; AMOUNTS OF LEAVE," SECTION 78-182, ENTITLED "SPECIAL PROVISIONS FOR EMPLOYEES ON MILITARY LEAVE," SECTION 78-183, ENTITLED "ACCUMULATION OR FORFEITURE OF ANNUAL LEAVE AND SICK LEAVE," SECTION 78-184, ENTITLED "CONVERSION AND TRANSFER OF ANNUAL LEAVE AND SICK LEAVE," SECTION 78-185, ENTITLED "USE OF ANNUAL LEAVE," SECTION 78-186, ENTITLED "USE OF SICK LEAVE," SECTION 78-187, ENTITLED "CHARGES AGAINST ANNUAL LEAVE AND SICK LEAVE," SECTION 78-188, ENTITLED "TIMING OF VACATION," SECTION 78-189, ENTITLED "PAYMENT FOR ANNUAL AND SICK LEAVE," SECTION 78-190, ENTITLED "OTHER LEAVES WITH COMPENSATION," SECTION 78-191, ENTITLED "WORKER'S COMPENSATION AND SUPPLEMENTAL INJURY PAY," SECTION 78-192, ENTITLED "USE OF ANNUAL OR SICK LEAVE FOR PURCHASE OF PENSION TIME," SECTION 78-193, ENTITLED "DONATION OF ANNUAL LEAVE AND SICK LEAVE," SECTION 78-194, ENTITLED "PAID PARENTAL LEAVE," SECTION 78-195, ENTITLED "LEAVE SELLBACK," SECTION 78-196, ENTITLED "USE OF SICK LEAVE FOR RETIREE HEALTH SAVINGS ACCOUNT," SECTION 78-197, ENTITLED "CITY MANAGER'S AUTHORITY TO ADOPT ADMINISTRATIVE PROCEDURES AND REGULATIONS", SECTION 78-198, ENTITLED "DOMESTIC AND SEXUAL VIOLENCE," AND SECTION 78-199, ENTITLED "DONATION OF ANNUAL AND SICK LEAVE FOR HUMANITARIAN DISASTER RELIEF"; REPEAL ORDINANCE NO. 1613 IN ITS ENTIRETY; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

The Administration recommends approval of the Ordinance No. 1613.

BACKGROUND

The City's Unclassified Employees' Leave Ordinance No. 1613 (the "Ordinance") was established to address employee leave benefits that are consistent with applicable federal, state, and local laws, as well as other city-established benefits. The Ordinance was last amended on October 19, 2016. Since then, the Administration has made improvements to the use of leave for City employees that were addressed in each of the five bargaining groups. However, some of the leave benefits afforded to classified employees have not been extended to unclassified employees. This has created inequities that have caused challenges in recruitment and retention across our entire workforce. In order to create parity amongst all groups of employees, this amendment along with a companion classified leave ordinance is also being proposed for clarity and consistency.

For instance, in the current Police and Fire collective bargaining agreements there are provisions that employees lose upon promotion to command staff. Command staff includes senior management professionals with significant leadership skills, expertise, and experience. It has been observed in recent years that a number of command staff members have opted to self-demote in order to avail themselves of the benefits outlined in the collective bargaining agreements reflecting an existing disincentive to advancing to senior leadership. Police and Fire bargaining members' leave settlements include accrued sick leave of 100% for Fire and 75% for Police, up to the cap, at the time of separation from the City. Updating this leave provision for the Unclassified group will allow for all employees to receive an equalized benefit upon retirement or separation. Furthermore, Police and Fire bargaining members have an annual sellback provision of accrued sick leave not afforded to other bargaining groups, including unclassified employees. The companion classified leave ordinance will include similar language for a leave sellback provision for clarity and consistency.

We believe that these leave ordinance updates for unclassified and classified will provide strong and fair benefits for all employees.

With this legislation, the Unclassified Leave Ordinance No. 1613 will be superseded and replaced with the changes listed below, and Article IV of Chapter 78 of the City Code, entitled "Unclassified Employees' Leave" will be codified.

Some of the substantive changes proposed in this Unclassified Leave ordinance update are outlined below:

ANALYSIS

Sec. 78-184. Conversion and Transfer of Annual Leave and Sick Leave.

Allowing employees to convert their sick hours to annual hours is a new section of this Ordinance. This provision will allow employees to convert, at the time of resignation, retirement, termination or death, or at any other time as may be designated by the City Manager, their sick leave accrued in excess of 360 hours to be transferred at the rate of one (1) day of sick leave to

one (1) day of annual leave for vested employees; sick leave accrued in excess of 360 hours may be transferred to annual leave at a rate of two (2) days of sick leave to one (1) day of annual leave for employees who are not vested. Sick leave may be converted in this manner to reach a maximum of 620 hours of annual leave.

Sec. 78-189. Payment for Annual and Sick Leave.

The proposed update to this section will allow for a 100% sick leave payout instead of 50% to a maximum of 620 hours for employees with more than ten (10) years of creditable service. For employees with ten (10) years of service or less, the maximum is 50% of their sick leave balance up to a maximum of 620 hours. The leave settlement payout for Police and Fire command staff will be consistent with the respective bargaining agreements in place at the time of resignation, retirement, termination, or death of an employee. The payout for Police and Fire command staff will also include base pay plus eligible incentive pay which will memorialize current standard operating procedures.

Sec. 78-191. Worker's Compensation and Supplemental Injury Pay.

In the last round of collective bargaining, we negotiated language to reduce the initial period of supplemental injury pay from sixteen (16) weeks to twelve (12) weeks. The proposed change will allow for the same benefit to unclassified employees, up to twelve (12) weeks, and consideration for an extension upon the advice of the Senior Risk Officer and approval of the City Manager. This will memorialize existing procedures.

Sec. 78-195. Sick Leave Sellback.

The sick leave sellback provision was previously offered to unclassified employees but was suspended during the challenging fiscal years that the City experienced following 2010. Adding this provision to the Unclassified leave ordinance would grant the City Manager the authority, on a discretionary basis, to implement the provision each fiscal year providing full-time unclassified employees the opportunity to sell, no more than one (1) time per year, accrued sick leave, up to a specified amount and while maintaining a minimum balance as established by the City Manager. The City Manager may pause or suspend the sick leave sell-back program under this section, due to availability of funds, budgetary constraints, or for any other reason. The City Manager shall have the authority, at any time, to establish and amend administrative procedures implementing the sick leave sellback program under this section. This extends to other employee groups a similar benefit now available to Police and Fire bargaining members.

Section 78-196. Use of Sick Leave for Retiree Health Savings Account.

The City Manager shall have the authority to establish a Retiree Health Savings ("RHS") Program for unclassified employees covered in this group, with terms and conditions that govern the use of accrued sick leave to fund individual RHS accounts. This extends to other employee groups a benefit now available to Police and Fire bargaining members.

Section 78-198. Domestic and Sexual Violence Leave.

The newly proposed provision will provide employees with domestic and sexual violence leave up to a maximum of thirty (30) days, in accordance with the Miami-Dade County Domestic Leave Ordinance (Chapter 11A-60 et. seq.) and Section 741.313, Florida Statutes. Employees must use their accrued annual or sick leave during their period of absence.

Section 78-199. Donate Annual and Sick Leave for Humanitarian Disaster Relief.

Per section 78-3, City employees are authorized to donate annual and sick leave for humanitarian disaster relief while maintaining at least 260 combined hours of annual and sick leave after any donation.

FISCAL IMPACT

The fiscal impacts of the sick leave sellback provision (Section 78-195) and the use of sick leave for retiree health savings account provision (Section 78-196) would be calculated upon the creation of an administrative procedure. Funds for these programs would be appropriated through the City's annual budget process.

The fiscal impact of this ordinance change varies by fund type, due to differing accounting rules for proprietary and governmental funds. Because the full liability of accruals must be recorded in proprietary funds, whether or not employees are scheduled to separate from the city, the fiscal impact is immediate and is estimated to be \$797,374 for enterprise funds and \$242,848 for internal service funds, for a total estimated impact of \$1,040,222.

Following this one-time adjustment to the value of the accrued sick leave liability, any incremental liability would be modified quarterly in these funds, as has been performed previously.

Alternatively, the fiscal impact of governmental funds is measured on a modified basis and fluctuates based on the number of employees separating from the City. To provide a basis for the impact on governmental funds, an estimate can be projected based on prior history of sick leave payouts adjusted for estimated increased accrued liabilities. While the number of employees who leave each year may fluctuate, the 4-year average for sick leave payouts for governmental funds employees approximates \$461,581.

Assuming a similar number of people were to leave, the increased value of sick leave payouts calculated across all employee groups in governmental funds is estimated to be \$512,355 reflecting an increased payout of \$50,774 for governmental funds.

CONCLUSION

The City Administration recommends that the City Commission approve the proposed amendments to the Ordinance on first reading and schedule a second reading and public hearing to amend the Unclassified Leave Ordinance to promote recruitment and retention, reduce the occurrence of self-demotions amongst command staff, provide equity in leave value amongst unclassified and classified employees, and to codify the ordinance consistent with existing procedures and remove obsolete language. Upon approval, the proposed changes will take effect immediately.