

R5 X AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH EMPLOYEES' RETIREMENT PLAN CREATED BY ORDINANCE NO. 2006-3504, AS SUBSEQUENTLY AMENDED, TO AMEND THE PROVISIONS APPLICABLE TO ELECTED OFFICIALS; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: December 11, 2024 11:10 a.m. First Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH EMPLOYEES' RETIREMENT PLAN CREATED BY ORDINANCE NO. 2006-3504, AS SUBSEQUENTLY AMENDED, TO AMEND THE PROVISIONS APPLICABLE TO ELECTED OFFICIALS; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

RECOMMENDATION

BACKGROUND/HISTORY

ANALYSIS

The attached Ordinance, which is sponsored by Commissioner David Suarez, has been placed on the November 20, 2024 City Commission meeting agenda for First Reading. A summary of the proposed Ordinance is set forth below.

The Office of the City Attorney has engaged the City's outside pension counsel to assist with the drafting of the proposed Ordinance, which is attached as an exhibit to this Memorandum.

This proposed Ordinance amends the Miami Beach Employees' Retirement Plan (the "Pension Plan") as it relates to an Elected Official (as defined in the Pension Plan) who is initially elected to office on or after the effective date of the ordinance or who is reelected as an Elected Official following a break in service on or after that date (collectively, "Future Elected Officials").

If adopted, Future Elected Officials will not be eligible to participate in the Pension Plan but shall instead participate in the Defined Contribution Retirement System (as defined in the Pension Plan. For the avoidance of doubt, any Employee (as defined in the Pension Plan) who is participating in this Plan on the effective date of the ordinance, and subsequently elected to office as an Elected Official without a break in service, may continue to participate in this Plan.

Relevant Definitions from the Pension Plan, Section 2:

Defined Contribution Retirement System" means a plan established by the City pursuant to Ordinance 92-2813.

"Elected Officials" means the Mayor, and the members of the City Commission of the City of Miami Beach.

"Employee" means any person employed by the City on a regular basis who is receiving compensation from the City for personal services, exclusive of the following groups and classifications:

- (a) Persons whose services are compensated on a contractual basis.
- (b) Persons employed on a provisional, original probationary or other temporary basis.
- (c) Members of boards or commissions, officers, or employees receiving no salary or a nominal salary on a fee basis.
- (d) Members of the City Pension Fund for Firemen and Policemen or the City Supplemental Pension Fund for Firemen and Policemen in the City of Miami Beach.
- (e) Persons whose regular employment with the City is for less than thirty (30) hours per week. Provided, however, all persons who were on the membership rolls of the Classified System as of August 31, 1992 and became Members of this Plan on March 18, 2006, whose regular employment is for less than thirty (30) hours per week may continue as Members of this Plan.

"Employee" also means any person employed on a regular basis for thirty (30) or more hours per week by the Miami Beach Visitor and Convention Authority, this Retirement Plan, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen.

FISCAL IMPACT STATEMENT

If required pursuant to Section 112.63 of the Florida Statutes, a statement of the actuarial impact of the proposed change upon the local retirement system shall be provided prior to the final adoption of the proposed Ordinance.

Does this Ordinance require a Business Impact Estimate? Yes
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

CONCLUSION

Applicable Area

South Beach

**Is this a "Residents Right to Know" item,
pursuant to City Code Section 2-17?**

**Is this item related to a G.O. Bond
Project?**

No

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

City Attorney

Sponsor(s)

Commissioner David Suarez

Co-sponsor(s)

Commissioner Alex Fernandez

Condensed Title

11:10 a.m. 1st Rdg, Amend MBERP Provisions Applicable to Elected Officials.
(Suarez/Fernandez) CA

ORDINANCE NO. 2024 - _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH EMPLOYEES' RETIREMENT PLAN CREATED BY ORDINANCE NO. 2006-3504, AS SUBSEQUENTLY AMENDED, TO AMEND THE PROVISIONS APPLICABLE TO ELECTED OFFICIALS; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. The Miami Beach Employees' Retirement Plan created by Ordinance 2006-3504, as subsequently amended, is hereby amended as follows:

Section 1. Creation and Purpose of the Retirement Plan

1. A retirement system is hereby created under and by authority of Chapter 18691, Laws of Florida, Acts of 1937, as amended, by merging the "RETIREMENT SYSTEM FOR GENERAL EMPLOYEES OF THE CITY OF MIAMI BEACH" created by Ordinance 1901, as amended (hereinafter referred to as the "Classified System"), with the "RETIREMENT SYSTEM FOR UNCLASSIFIED EMPLOYEES AND ELECTED OFFICIALS OF THE CITY OF MIAMI BEACH" created by Ordinance 88-2603, as amended (hereinafter referred to as the "Unclassified System"), to form the "MIAMI BEACH EMPLOYEES' RETIREMENT PLAN" which shall be hereinafter referred to as the "Plan" or the "Retirement Plan." Any references to the Classified System or Unclassified System in any other provision of the City Charter, Code of Ordinances, ordinances or resolutions shall be construed to apply to this Plan in the same manner as applied to the Classified System or Unclassified System.

2. The purpose of the Retirement Plan is to provide retirement and other related benefits for eligible employees and elected officials of the City and their beneficiaries or dependents.

Section 2. Definitions

For purpose of the Retirement Plan, certain words and phrases shall have the meanings ascribed to them in this Article except when the context otherwise requires. The masculine pronoun, wherever used, shall include the feminine.

2.01 "Accumulated Employee Contributions" means the required contributions paid by any Member as provided in Section 6.2 or credited to the Member pursuant to Section 6.1(b), together with any interest allowed thereon under this Plan or previous City retirement system, until such time as the Employee's service with the City is terminated at the rate, compounded annually, as determined by the Board from time to time.

2.02 "Actuarial Equivalent" means equivalent when computed at 8.0% interest per annum on the basis of the RP 2000 Combined Healthy Participant Mortality Tables with a blending of 65% male rate and 35% female rates.

2.03 "Beneficiary" means, the surviving person or persons designated as such by a Member or Retirant in the last written designation on file with the Board in accordance with Section 5.10 (g); in the absence of such survivor or such designation, it means the estate of the deceased Member or Retirant, as the case may be.

2.04 "Board of Trustees" or "Board" means the managing board of the Plan as provided for in Article VII.

2.05 "Charter Officers" means the City Manager, City Attorney, City Clerk, and Inspector General.

2.06 "City" or "Employer" means the City of Miami Beach, Florida.

2.07 "City Commission" or "Commission" means the City Commission of the City of Miami Beach, Florida.

2.08 "Classified Employee" means an Employee who is employed in a classified position under the City of Miami Beach Civil Service Act.

2.09 "Creditable Service" means service credited to a Member under the Plan as provided in Article IV.

2.10 "Defined Contribution Retirement System" means a plan established by the City pursuant to Ordinance 92-2813.

2.11 "Domestic Partner" means a person with whom a member has entered into a domestic partnership as defined in Section 62-126 of the City Code, and registered and documented according to the requirements of Section 62-127 of the City Code.

2.12 "Earnings" means base pay, including longevity pay, for personal services rendered as an Employee, but excluding any payment of overtime, shift differential or extra compensation allowances such as uniform allowances. Notwithstanding the foregoing, in the case of any Member who is in a classification within the CWA bargaining unit who entered service with the City prior to February 21, 1994 as a Classified Employee, and who was continuously a member of the Classified System from that date until March 18, 2006, "Earnings" shall include overtime pay up to a maximum of ten percent (10%) above the Member's highest pensionable earnings each year. The definition of Earnings in the preceding sentence shall apply to Employees in classifications within the AFSCME bargaining unit who entered the service of the City prior to April 30, 1993 and to employees in classifications within the GSA bargaining unit who entered the service of the City prior to August 1, 1993, and who were Members of the Classified Plan continuously from that date until March 18, 2006, upon the ratification of a collective bargaining agreement that contains such definition. Earnings in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code, and regulations promulgated thereunder, shall be disregarded, and no member contributions shall be required on any such excess

2.13 "Elected Officials" means the Mayor, and the members of the City Commission of the City of Miami Beach.

2.14 "Employee" means any person employed by the City on a regular basis who is receiving compensation from the City for personal services, exclusive of the following groups and classifications:

- (a) Persons whose services are compensated on a contractual basis.
- (b) Persons employed on a provisional, original probationary or other temporary basis.
- (c) Members of boards or commissions, officers, or employees receiving no salary or a nominal salary on a fee basis.
- (d) Members of the City Pension Fund for Firemen and Policemen or the City Supplemental Pension Fund for Firemen and Policemen in the City of Miami Beach.
- (e) Persons whose regular employment with the City is for less than thirty (30) hours per week. Provided, however, all persons who were on the membership rolls of the Classified System as of August 31, 1992 and became Members of this Plan on March 18, 2006, whose regular employment is for less than thirty (30) hours per week may continue as Members of this Plan.

"Employee" also means any person employed on a regular basis for thirty (30) or more hours per week by the Miami Beach Visitor and Convention Authority, this Retirement Plan, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen.

2.15 (a) "Final Average Monthly Earnings" means one-twelfth of the average annual earnings of the Member during the two highest paid years of creditable service except as otherwise provided in this Section 2.14. Notwithstanding the foregoing, for any Member who became a Member of the Unclassified System prior to October 18, 1992 and was continuously a Member of the Unclassified System from that date until March 18, 2006, "Final Average Monthly Earnings" means one-twelfth of the average annual earnings of the Member during the two highest paid years of creditable service but shall not in any event be less than one-twelfth of the earnings of the Member during the twelve months immediately preceding March 18, 2006.

(b) Notwithstanding Section 2.14(a) above, effective September 30, 2010, "Final Average Monthly Earnings" means:

1) For those Members who as of September 30, 2010 have attained normal retirement age or are within twenty-four (24) months from normal retirement age, "Final Average Monthly Earnings" shall have the same meaning as in Section 2.14(a) above.

2) For those Members who as of September 30, 2010 are between twenty-four (24) and thirty-six (36) months from normal retirement age, "Final Average Monthly Earnings" means one-twelfth (1/12) of the average annual earnings of the Member during the three (3) highest paid years of creditable service.

3) For those Members who as of September 30, 2010 are between thirty-six (36) and forty-six (46) months from normal retirement age, "Final Average Monthly Earnings" means one-twelfth (1/12) of the average annual earnings of the Member during the four (4) highest paid years of creditable service.

4) For those Members who as of September 30, 2010 are more than forty-eight (48) months from normal retirement age, "Final Average Monthly Earnings" means one-twelfth (1/12) of the average annual earnings of the Member during the five (5) highest paid years of creditable service.

(c) Effective April 23, 2014, Members within classifications in the AFSCME bargaining unit who were hired prior to September 30, 2010, may elect to retire for purposes of the Plan but continue employment with the City for up to sixty (60) months, and have their monthly retirement benefit paid into a DROP account during the DROP period, in accordance with Section 5.13.

2.16 "Finance Director" means the Finance Director of the City of Miami Beach as appointed by the City Manager or such person designated by the City Manager to perform the duties of Finance Director.

2.17 "Member" means any Employee included in the membership of the Plan, as provided in Article III. A Member who retires shall be deemed a retired member or a retirant.

2.18 "Pension" means the monthly amount payable to a Pensioner under the Plan; the pension shall be due as of the first day of the calendar month next following the death of the Member or Retirant and shall cease after the payment due on the first day of the month in which the Pensioner ceases to be entitled thereto according to the provisions of this Ordinance.

2.19 "Pensioner" means the dependent beneficiary of a Member or Retirant in receipt of a pension under the Plan as the result of the death of a Member or Retirant of this Plan, the Classified or Unclassified System, or the Predecessor System.

2.20 "Physical Examiners" means the physicians provided for in Section 8.06(j).

2.21 "Predecessor system" means the Retirement System governed by Ordinance No. 845 as in effect prior to the adoption of the Classified System and the Unclassified System.

2.22 "Regular Interest" means interest at the rate or rates determined by the Board of Trustees as provided in Section 8.6(d).

2.23 "Retirant" means a person in receipt of retirement allowance payments under the Plan on the basis of his service as an Employee.

2.24 "Retirement allowance" means monthly payments under the Plan to a Retirant during his lifetime; monthly payments shall be due as of the first day of each calendar month and shall cease after the payment as of the first day of the month in which the Retirant's death occurs.

2.25 "Retirement Plan" or "Plan" means the Miami Beach Employees Retirement Plan created by this ordinance.

2.26 "Unclassified Employee" means an Employee who is employed in a position that is not a classified position under the City of Miami Beach Civil Service Act.

2.27 Deferred Retirement Option Plan (DROP) - A program under which a Member who has reached the normal retirement date may elect to retire for purposes of the Plan but continue employment with the City for up to thirty-six (36) months, and have his/her monthly retirement benefit paid into a DROP account during the DROP period, in accordance with Section 5.13. Notwithstanding the preceding sentence:

(a) Effective July 17, 2013, Members within classifications in the CWA bargaining unit who were hired prior to October 27, 2010, and Members not included in any bargaining unit, who were hired prior to September 10, 2010, may elect to retire for purposes of the Plan but continue employment with the City for up to sixty (60) months, and have their monthly retirement benefit paid into a DROP account during the DROP period, in accordance with Section 5.13.

(b) Effective October 16, 2013, Members within classifications in the GSAF bargaining unit who were hired prior to July 14, 2010, may elect to retire for purposes of the Plan but continue employment with the City for up to sixty (60) months, and have their monthly retirement benefit paid into a DROP account during the DROP period, in accordance with Section 5.13.

(c) Effective April 23, 2014, Members within classifications in the AFSCME bargaining unit who hired prior to September 30, 2010, may elect to retire for purposes of the Plan but continue employment with the City for up to sixty (60) months, and have their monthly retirement benefit paid into a DROP account during the DROP period, in accordance with Section 5.13.

For members in classifications within the American Federation of State, County and Municipal Employees ("AFSCME") and Communications Workers of America ("CWA") bargaining units, the terms in this Plan shall have the same meanings as in Ordinance 789, the Classified Employee's Salary Ordinance, except as otherwise specifically provided in this Plan.

Section 3. Membership

3.01 Every person who on March 18, 2006 was a Retirant, Pensioner, or vested former member under the Classified System, Unclassified System or Predecessor System shall automatically become on such date a Retirant, Pensioner or vested Member, as applicable, under this Plan, and shall continue to receive or receive in the future under this Plan the benefits paid or payable under the Classified System, Unclassified System, or Predecessor System. Every person who on March 18, 2006 was a Member of the Classified System or Unclassified System shall automatically become on such date a Member of this Retirement Plan. Any written designation of beneficiary or dependent beneficiary in effect under the Classified System, Unclassified System or Predecessor System on March 18, 2006 shall continue to be in effect under this Plan unless subsequently changed or revoked by the Member or Retirant, in writing, in accordance with the provisions of this Plan Ordinance.

3.02 Any person, other than as provided in Section 3.03 herein, who becomes an Employee on or after March 18, 2006 shall be a Member of this Plan as a condition of his employment or office, as of the first day of City employment. An Employee's acceptance of employment with the city shall constitute authorization for the city to deduct contributions from the Earnings of the Employee in accordance with Section 6.02. unless and until the Employee elects not to participate in this Plan pursuant to Section 3.03.

3.03 Any person serving as an Elected Official or Charter Officer shall have the option to reject membership in this Plan, and to participate in another plan that is approved by the City Commission. Any employee in a classification within the AFSCME or GSA bargaining units who enter the service of the City on or after March 18, 2006, and who would otherwise become a Member of this Retirement Plan, shall have an irrevocable option to reject membership in this Plan, and elect instead to participate in the Defined Contribution Retirement System, until such time as a collective bargaining agreement is ratified that provides for mandatory participation in this Plan.

3.04 An Employee shall cease to be a Member if he dies, retires, ceases to be an Employee as defined in Section 2.13 herein for any other reason, or elects not to participate in this Plan in accordance with Section 3.03.

3.05 Any Employee who previously elected to participate in the Defined Contribution Retirement System, or a defined contribution retirement plan established for employees of the Miami Beach Visitor and Convention Authority, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen, prior to March 18, 2006 shall have a one-time, irrevocable option to transfer to this Plan by filing a written election with the Board within six months from March 18, 2006, but in no event later than the last day of employment. Employees who elect to participate in this Plan pursuant to this Section 3.05 may purchase Creditable Service under the Plan for all or a portion of the period of their participation in the Defined Contribution Retirement System, or a defined contribution retirement plan established for employees of the Miami Beach Visitor and Convention Authority, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen, in accordance with Section 4.04. Notwithstanding the foregoing, Employees in classifications within the AFSCME and GSA bargaining units who previously elected to participate in the Defined Contribution Retirement System, shall not be eligible to participate in this Plan unless and until a collective bargaining agreement is ratified that provides for such participation.

3.06 Notwithstanding any other provision of the Plan, an Elected Official who is initially elected to office on or after [effective date of this ordinance], or who is reelected as an Elected Official following a break in service on or after that date, shall not be eligible to participate in this Plan, and shall participate in the Defined Contribution Retirement System. Provided, any Employee who is participating in this Plan on [effective date of this ordinance], and subsequently elected to office as an Elected Official without a break in service, may continue to participate in this Plan.

* * * * *

SECTION 2. Incorporation by Reference of Resolution No. 2013-28290.

Resolution No. 2013-28290, accepting the recommendations of the Finance and Citywide Projects Committee at its May 13, 2013 meeting, to adopt the Budget Advisory Committee's proposed policies and guidelines in order to ensure long term pension reform, is incorporated herein by reference pursuant to Ordinance No. 2013-3806.

SECTION 3. Conflicts and Severability.

(a) All Ordinances, and parts of ordinances, in conflict herewith shall be and the same, are hereby repealed.

(b) In the event any article, section, paragraph, sentence, clause, or phrase of this Ordinance shall be adjudicated invalid or unconstitutional, such adjudication shall in no manner affect the other articles, sections, paragraphs, sentences, clauses or phrases of this Ordinance, which shall be and remain in full force and effect as fully as if the item so adjudged invalid or unconstitutional was not originally a part hereof.

SECTION 4. Effective Date.

This Ordinance shall take effect the _____ day of _____, 2024.

PASSED and **ADOPTED** this _____ day of _____, 2024.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner David Suarez)

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK

11/13/2024
Date

Underscore denotes new language

~~Strikethrough denotes deleted language~~

(Ordinance Nos. 2006-3504, 2006-3530, 2007-3575, 2009-3626, 2009-3664, 2010-3693, 2010-3706, 2013-3806, 2014-3837, 2014-3864, 2015-3946, 2023-4549)