



FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

retirement
We serve those who serve Florida

Bureau Local Retirement Systems
Municipal Police Officers' & Firefighters' Trust Funds' Office
P.O. Box 3010
Tallahassee, FL 32315-3010
Tel: 850-922-0667 | Fax: 850-921-2161 | Toll-Free: 877-738-6737

Rick Scott, Governor

Erin Rock, Secretary

November 30, 2018

CERTIFIED MAIL

7006 2760 0002 2328 7310

Honorable Josh Levy
Mayor of Hollywood
2600 Hollywood Blvd
Hollywood, FL 33020-4807

Re: Hollywood Police Officers' Pension Plan

Dear Mayor Levy:

This letter serves as notice that the Division of Retirement (Division) is required to withhold the 2017 premium tax moneys, in the amount of \$1,541,166.44, for the Police Officers' Pension Plan in accordance with Section 185.10, Florida Statutes (F.S.).

The Division notified your agency by correspondence dated November 30, 2018 (copy attached), that the Police Officers' Pension Plan has not been approved, based on a failure to comply with the provisions of Chapter 185, F.S. The issues of non-compliance noted in that letter must be resolved to be eligible for receipt of the 2017 premium tax distribution.

This notification constitutes a final agency action and provides a point of entry for an appeal if you disagree with our decision. If you wish to appeal this matter, it is necessary for you to file a petition for hearing. You may request that the hearing be delayed in order to allow for the submission of the necessary information for the report to be approved. If you fail to prevail in your appeal or fail to timely appeal the Division's decision, you will not be eligible to receive the 2017 premium tax moneys.

A copy of Rule 28-106.201, Florida Administrative Code (F.A.C.), which sets forth the requirements for a petition, is enclosed. Your completed petition, should you decide to appeal, should be returned to this office after which you will be notified by the Division or the Administrative Law Judge of all future proceedings and hearings.

It is the Division's goal that this controversy be settled and for your plan to be brought into compliance with the statutory requirements.

RECEIVED
DEC 04 2018
CITY OF HOLLYWOOD
POLICE RETIREMENT SYSTEM

Honorable Josh Levy
November 30, 2018
Page Two

Your petition should be filed at the following location:

DIVISION OF RETIREMENT
P.O. Box 3010
TALLAHASSEE, FLORIDA 32315-3010

In the event that you do not file an appeal within 21 days, Rule 28-106.111, F.A.C., a copy of which is also enclosed, provides that you have waived your rights to an administrative hearing on this matter.

Sincerely,



Shirley A. Beauford
Interim State Retirement Director

SB/sb

Enclosures

cc: David Strauss, 7006 2760 0002 2328 7327

28-106.111 Point of Entry into Proceedings and Mediation.

(1) The notice of agency decision shall contain the information required by Section 120.569(1), F.S. The notice shall also advise whether mediation under Section 120.573, F.S., is available, and if available, that pursuit of mediation will not adversely affect the right to administrative proceedings in the event mediation does not result in a settlement.

(2) Unless otherwise provided by law, persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.

(3) An agency may, for good cause shown, grant a request for an extension of time for filing an initial pleading. Requests for extension of time must be filed with the agency prior to the applicable deadline. Such requests for extensions of time shall contain a certificate that the moving party has consulted with all other parties, if any, concerning the extension and that the agency and any other parties agree to or oppose the extension. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

(4) Any person who receives written notice of an agency decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters. This provision does not eliminate the availability of equitable tolling as a defense.

(5) The agency may publish, and any person who has timely requested mediation may, at the person's own expense, cause the agency to publish, a notice of the existence of the mediation proceeding in the *Florida Administrative Register* or in a newspaper of general circulation in the affected area. The mediation notice can be included in the notice of intended agency action.

(a) The notice of the mediation proceeding shall include:

1. A statement that the mediation could result in a settlement adopted by final agency action;

2. A statement that the final action arising from mediation may be different from the intended action set forth in the notice which resulted in a timely request for mediation;

3. A statement that any person whose substantial interests may be affected by the outcome of the mediation shall within 21 days of the notice of mediation proceeding file a request with the agency to participate in the mediation; and

4. An explanation of the procedures for filing such a request.

(b) The notice shall also advise that in the absence of a timely request to participate in the mediation, any person whose substantial interests are or may be affected by the result of the mediation waives any right to participate in the mediation.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 3-18-98, 1-15-07.

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Rulemaking Authority 14.202, 120.54(3), (5) FS. Law Implemented 120.54(3) FS. History—New 4-1-97, Amended 9-17-98, 1-15-07.



Rick Scott, Governor

Erin Rock, Secretary

November 30, 2018

Mr. Jeovany Rodriguez
KSDT & Company
9300 S. Dadeland Blvd., Suite 600
Miami, FL 33156

Dear Mr. Rodriguez:

We have completed our preliminary review of the 2017 Annual Report for the Hollywood Police Officers' Pension Fund.

Based on that review, listed below are items that need corrections, clarification and/or additional information.

- The Plan has been not state accepted for compliance with Part VII Chapter 112, F.S. based on the reasons set forth in Keith Brinkman's letters dated August 24, 2016 and October 2, 2015, copies attached. To the best of our knowledge, the issues of non-compliance remain unresolved.

NOTE: Premium tax moneys in the following amounts are now being withheld pending the resolution of the outstanding issues listed above:

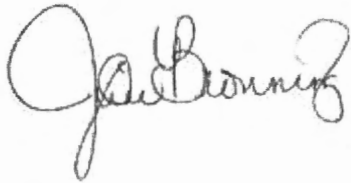
2014	Police	1,308,509.33
2015	Police	1,375,500.69
2016	Police	1,418,050.00
2017	Police	1,541,166.44
		<u>5,643,226.46</u>

Since the plan was not approved by fiscal year end 2018, you will not be able to include the 2017 premium tax moneys on the 2018 Annual Report, and any resulting funding deficiency must be contributed by the city.

Please be advised that ss. 175.121(2) and 185.10(2), F.S. require that in order for a municipality or special fire control district and its pension fund to participate in the distribution of premium tax moneys under Chapters 175 and 185, F. S., all the provisions of these chapters shall be complied with annually, **including state acceptance pursuant to Part VII of Chapter 112, F. S.** If you receive a notice from the Local Retirement Section (LRS) that the plan is "not state accepted," or there is some outstanding issue that the LRS office is waiting on, please provide a prompt response so as not to jeopardize release of your state premium tax moneys.

If you have any questions or need further information, please call our office at 850/922-0667.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Browning". The signature is fluid and cursive, with the first name "Julie" and last name "Browning" clearly distinguishable.

Julie Browning, Accountant
Municipal Police Officers' and
Firefighters' Retirement Trust Funds

JB:mjm
Enclosure

Copy: David Strauss, Chairman
Todd Green, Plan Actuary
Stuart Kaufman, Plan Attorney
David Williams, Plan Administrator
Cintya Ramos, Finance Director



FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

retirement

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Bureau Local Retirement Systems

P.O. Box 9000

Tallahassee, FL 32315-9000

Tel: 850-488-2784 | Fax: 850-921-2161 | Toll-Free: 877-738-5622

Rick Scott, Governor

Chad Poppell, Secretary

August 24, 2016

Mr. Alan Fallik
Deputy City Attorney
City of Hollywood
2600 Hollywood Blvd.
Hollywood, FL 33022-9045

Mr. David Strauss, Chairman
Hollywood Police Officers' Retirement System
4205 Hollywood Blvd., Suite 4
Hollywood, FL 33021

Re: City of Hollywood Police Officers' Retirement System (Plan)

Dear Mr. Fallik and Mr. Strauss:

This letter follows up on the attached letter of October 2, 2015, for the above referenced Plan.

We have not received a response providing a satisfactory resolution to the issues raised in previous correspondence, therefore the Plan is still **not state accepted** for compliance with Part VII of Chapter 112, Florida Statutes.

Please refer to the attached letter dated August 24, 2016, from Julie Browning for the results of the Chapter 185, F.S., 2015 annual report review.

We are now withholding the distribution of the 2015 and 2014 premium tax revenues in the amounts of \$1,375,500.69 and \$1,308,509.33, respectively, pending satisfactory resolution of the issues of noncompliance with Part VII of Chapter 112, and a determination of compliance with Chapter 185, F.S.

NOTE: Section 112.63(4), F.S., provides that if a satisfactory response to this request is not received within a reasonable period of time, the Department of Management Services may notify the Departments of Revenue and Financial Services to withhold any funds payable to the plan sponsor (not pledged for the satisfaction of bond debt service), until the additional material information or corrections have been received by this office.

Mr. Alan Fallik and Mr. David Strauss
Page 2
August 24, 2016

Sincerely,



Keith E. Brinkman, Chief
Bureau of Local Retirement Systems

cc: David Williams, Administrator
Jose Fernandez, Actuary

Steve Cypen, Esq.
Sarah Carr, Benefits Admin, MPF Office

attachments



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Rick Scott, Governor

Chad Poppell, Secretary

October 2, 2015

Mr. Alan Fallik
Deputy City Attorney
City of Hollywood
2600 Hollywood Blvd.
Hollywood, FL 33022-9045

Mr. David Strauss, Chairman
Hollywood Police Officers' Retirement System
4205 Hollywood Blvd., Suite 4
Hollywood, FL 33021

Re: City of Hollywood Police Officers' Retirement System (Plan)

Dear Mr. Fallik and Mr. Strauss:

This letter follows up on the attached letters of July 3, 2014, and June 18, 2015, outlining the issues of noncompliance with Part VII of Chapter 112, Florida Statutes, for the above referenced Plan regarding payment of a Supplemental Pension Distribution, pursuant to section 33.136(N) of the Hollywood City Code. Since 2009, the Department of Management Services (Department) has notified the Plan on several occasions that supplemental distributions funded by using excess investment gains, despite the lack of net favorable actuarial experience accumulated from all sources of gains and losses, violate the provisions of section 112.61, F.S. These letters have provided guidance on the additional information and/or corrections required to bring the Plan into compliance with Part VII of Chapter 112, F.S. To date, the additional information and/or corrections have not been received. Therefore, the Plan has been determined to be **not state accepted** pursuant to Part VII of Chapter 112, F.S.

In addition to the supplemental distribution that was paid out in 2013, the Plan also paid out supplemental distributions to retirees in 2014 and 2015. Based on the Plan's unfavorable net actuarial experience accumulated from all sources of gains and losses, if the actuarial accrued liability created by this benefit is not funded through additional contributions (as has been done in the past), these distributions would not comply with Part VII of Chapter 112, F.S.

As described in the July 3, 2014, letter the required funding for the 2013 supplemental distribution may be amortized and funded through additional City contributions.

Beginning with the November 21, 2013, letter from the City requesting that the Department conduct a further review of the 2013 supplemental benefit distribution, the Department began an active investigation reviewing the supplemental distribution practice for compliance with Part VII of Chapter 112, F.S. During this review, several letters were exchanged between the City, Plan and Department.

During the active Departmental review, a supplemental distribution was paid out in 2014, while the Plan still was in an accumulated actuarial loss position. Further, the 2015 supplemental distribution occurred after the Department's formal guidance on July 3, 2014, which clearly explained that the benefit must be funded through additional contributions to comply with Florida law.

The Plan and City have not taken steps to address the issues raised in the July 3, 2014, letter regarding any future supplemental distributions. These steps included either amending the Plan document or establishing a pre-funding mechanism. Therefore, funding for the 2014 and 2015 supplemental distributions may not be amortized and must be deposited by the City into the fund in full, prior to a determination of state acceptance, pursuant to Part VII of Chapter 112, F.S.

The guidance provided in the July 3, 2014, letter regarding future supplemental benefit distributions remains in effect. The City must amend or rescind the Plan provision, or else begin making additional contributions to the Plan to pre-fund for future distributions. Please provide verification of the resolution of this issue, prior to a determination of state acceptance pursuant to Part VII of Chapter 112, F.S.

Note that section 185.10(2), F.S. requires, in part, that "In order for a municipality and its retirement fund to participate in the distribution of premium tax moneys under this chapter, all the provisions shall be complied with annually, including state acceptance pursuant to part VII of chapter 112."

We are now withholding the distribution of the 2014 premium tax revenues in the amount of \$1,308,509.33 pending satisfactory resolution of the issues of noncompliance with Part VII of Chapter 112, and a determination of compliance with Chapter 185, F.S.

NOTE: Section 112.63(4), F.S., provides that if a satisfactory response to this request is not received within a reasonable period of time, the Department of Management Services may notify the Departments of Revenue and Financial Services to withhold any funds payable to the plan sponsor (not pledged for the satisfaction of bond debt service), until the additional material information or corrections have been received by this office.

Sincerely,



Keith E. Brinkman, Chief
Bureau of Local Retirement Systems

cc: David Williams, Administrator
Steve Cypen, Esq.
Jose Fernandez, Actuary
Sarah Carr, Benefits Administrator, MPF Office

attachments