



Bureau Local Retirement Systems
P.O. Box 9000
Tallahassee, FL 32315-9000

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

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



FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

retirement
We serve those who serve Florida

Bureau Local Retirement Systems

P.O. Box 9000

Tallahassee, FL 32315-9000

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Rick Scott, Governor

Chad Poppell, Secretary

June 18, 2015

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

Re: City of Hollywood Police Officers' Retirement Plan – additional "13th check"

Dear Mr. Fallik:

I am writing to request a status update regarding the Hollywood Police Officers' Retirement Plan's additional benefit distribution. Has there been any action taken since your letter of November 26, 2014, regarding funding of the additional pension benefit that was distributed, pre-funding of the additional pension benefit for future distributions, or any amendments to the local ordinance provisions of the plan? Please refer to the attached letter dated July 3, 2014, for more explanation of the issues to be resolved. State acceptance under Part VII of Chapter 112, Florida Statutes and distribution of state funds to the City are contingent on a satisfactory response.

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.

Please let me know if you have any questions or if the Division can be of further assistance.

Sincerely,

Keith E. Brinkman, Chief
Bureau of Local Retirement Systems

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

attachments



FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

retirement
We serve those who serve Florida

Bureau of Local Retirement Systems
Municipal Police Officers' & Firefighters'
Retirement Trust Funds' Office
P.O. Box 3010
Tallahassee, Florida 32315-3010

Tel: 850.922.0667 | Fax: 850.921.2161 | Toll-Free: 877.738.6737

Rick Scott, Governor

Craig J. Nichols, Agency Secretary

July 3, 2014

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

Re: City of Hollywood Police Officers' Retirement Plan – additional "13th check"

Dear Mr. Fallik:

This letter responds to your correspondence of November 21, 2013, related to the additional "13th check" benefit awarded to retirees of the City of Hollywood's (the City) Police Officers' Retirement Plan (the Plan) in 2013. You have requested that the Division of Retirement (the Division) review the Plan's Board of Trustees' (the Board) decision to grant an additional distribution to Plan retirees and determine whether payment of the benefit violated section 112.61, F.S., or any other applicable statutes. Pursuant to section 112.665(1)(c), F.S., the Division has the authority to respond to local government requests involving the applicability of laws over which the Division has substantive jurisdiction. All facts as presented in your letters and the relevant authority have been considered in preparation of this response.

The Plan is a "local law plan" established and operating under the provisions of Chapter 185, F.S. (the Chapter). The Plan is required to comply with all the provisions of the Chapter annually, as well as state acceptance under Part VII of Chapter 112, F.S., to maintain eligibility to receive a distribution of insurance premium taxes collected within the city limits.

Section 33.136(N) of the City Code relates to payment of an additional pension distribution and states that such distribution "shall be payable to eligible persons ... for each fiscal year in which the actual rate of investment return earned on fund assets exceeds the assumed rate of investment return on fund assets." The Board is then required to determine eligibility and amount of the additional distribution. In 2011 the City amended this provision to exclude from eligibility all retirees after September 30, 2011.

Section 112.61, F.S., provides that an additional benefit of a local government retirement system or plan may only be funded by actuarial experience if "the present value of such benefits does not exceed the net actuarial experience accumulated from all sources of gains and losses...". Since the City and the Board have acknowledged that the Plan does not meet this requirement, any additional Plan benefits, including the cost of the 2013 additional pension distribution, may not be funded from investment gains.

For the 2013 additional distribution, if the cost is funded by additional contributions by the City to pay the unfunded liability of the Plan, as described in the Plan actuary's letter of November 18,

2009, then the Plan benefit would be allowable under s. 112.61, F.S. If the Plan's shortfall brought on by payment of this additional benefit is not paid through additional contributions, then the Plan benefit would not be allowable under s. 112.61, F.S. The consequences of violating applicable statutes and rules would be withholding of state insurance premium taxes collected under Chapter 185, F.S., and withholding of any funds not pledged for the satisfaction of bond debt service that are payable to the City, until satisfactory adjustment is made to correct the non-compliance.

Since the inception of the additional benefit distribution provision to the City's Code in 2001, the Division is aware of at least three such distributions that have been awarded to Plan retirees. Because this additional benefit provision has once again been triggered, the continued practice of post-funding this additional benefit does not comply with the requirement in s. 112.61, F.S., which prohibits the transfer of costs to future taxpayers that may reasonably have been expected to be paid by current taxpayers.

If the City wishes to limit exposure to the costs associated with this provision, the City may wish to consider amending or rescinding the Plan provision. However, if the benefit provision remains unchanged in the City Code, the Plan actuary must begin estimating the frequency and amounts of future additional distributions and begin including a cost factor to pre-fund it. The basis for this estimation and the calculation of the cost factor should be clearly identified in the actuarial valuations. Future additional benefit distributions will not be state accepted under Part VII of Chapter 112, F.S., if steps are not taken to attribute these costs to current taxpayers, instead of transferring all costs to future taxpayers.

If provisions are not made to satisfy the unfunded liability that was generated by the payment of the additional pension benefit in 2013, the Plan will not be state accepted for compliance with Part VII of Chapter 112, F.S. If the unfunded liability is to be funded through additional contributions, please provide verification of the City's commitment to fulfilling these funding requirements in full until the liability is satisfied.

Please let me know if you have any questions or if the Division can be of further assistance.

Sincerely,



Keith E. Brinkman, Chief
Bureau of Local Retirement Systems

cc: David Strauss, Chairman
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