

MEMORANDUM

TO: BOARDS OF TRUSTEES
PLAN ADMINISTRATORS

FROM: ALISON S. BIELER, ESQ.

DATE: AUGUST 12, 2013

RE: SB 50 - Public Comment at Pension Board Meetings

On June 28, 2013, Florida Governor Scott signed Senate Bill 50 SB 50, Chapter 2013-227, Laws of Florida, effective October 1, 2013. Attached for your referenced is a copy of SB 50.

This new law requires that members of the public be given a reasonable opportunity to be heard on a proposition before a board of a local government. The opportunity to speak on a proposition does not have to occur at the same meeting at which the official action is taken as long as the opportunity occurs at a meeting that is during the decision-making process and is within "a reasonable proximity in time before the meeting" at which the board takes the official action.

The opportunity to be heard does not apply to:

- Official acts which must be taken to deal with an emergency situation affecting the public health, safety or welfare if compliance with the requirements of SB 50 would cause unreasonable delay.
- An official act involving no more than a ministerial act, including but not limited to, approval of minutes and ceremonial proclamations.
- A meeting exempt from the "Sunshine Law," Section 286.011, Florida Statutes.
- A meeting during which a board is acting in a quasi-judicial capacity such as a disability hearing or a forfeiture hearing.

The new law authorizes the circuit court to issue an injunction for the purpose of enforcing SB 50. If an action is filed and the court determines that the board violated SB 50, then the court is *required* to assess attorney fees against the board at both the trial and appellate levels. The court may also assess reasonable attorney fees against an individual filing such action if the court finds that the action was filed in bad faith or was frivolous.

August 8, 2013
Page 2 of 2

If a pension board adopts rules or policies in accordance with SB 50 and follows such rules or policies when providing an opportunity for the public to be heard, then the board is deemed to be in compliance with SB 50. We have prepared the attached proposed public comment rules for the Board's consideration.

Please add this item to your next available meeting agenda for discussion. In the meantime, should you have any questions regarding SB 50 and its application to your plan, contact us at 800.332.3200.

**CITY OF HOLLYWOOD POLICE OFFICERS' RETIREMENT SYSTEM
RULES OF PROCEDURE FOR PUBLIC COMMENT AND
PARTICIPATION AT PENSION BOARD MEETINGS**

Rule 1. Purpose. Meetings of the Board of Trustees ("Board") shall be conducted in a business-like, yet open and cordial manner so as to allow the most efficient accomplishment of Board business without unnecessary formalities, while respecting the rights of each individual Trustee to express his or her opinion. Further, these procedures are intended to provide an opportunity for the public to observe the decision-making process of the Board, to participate on public items and to provide general comments under the "Public Comment" portion of the Board's meeting Agenda.

Rule 2. Decorum. All persons addressing the Board shall speak in a respectful manner and shall avoid the use of offensive or abusive language or conduct so that the good order and decorum that is necessary for a governmental meeting shall at all times be maintained.

Rule 3. Public Participation on Specific Items; Discussion.

a. Participation. Individuals wishing to speak on specific matters that appear on the Board's meeting Agenda shall be recognized by the Chair after the Chair opens an item for public comment.

b. Manner and Time.

(1.) Public discussion on any **other** item listed on the Agenda shall be limited to three (3) minutes maximum per person; however, the Chair may, after due consideration for the importance of the subject, allow additional information to be presented by authorizing the speaker to continue for additional time. Speakers shall confine their comments to matters that are relevant to the item under discussion. Once the three (3) minute time commences to run, it shall not be abated for questions or interchanges.

(2.) Individuals may designate a representative to speak for him or her or his or her group on a proposition if he or she so chooses.

(3.) Speakers may include written materials as part of their presentation by filing such materials with the Plan Administrator at the time of the speaker's oral presentation.

(4.) Each person who addresses the Board shall give his or her name and address.

(5.) No person, other than the Board and the person recognized by the Chair as having the floor, shall be permitted to enter into discussion without the permission of the Chair.

(6.) All questions from the public to the Board shall be addressed through the Chair. The Board shall not be required to answer questions unless expressly required by applicable law.

Rule 4. General Public Comments.

a. Agenda. Each regular Board meeting Agenda shall include "Public Comment."

b. Manner and Time. A total of thirty (30) minutes shall be allotted for public comment.

c. Board Action. On public comment matters, any person is entitled to be heard by the Board on any matter; however, no action shall be taken by the Board on a matter of Public Comment, unless the item is properly added to the Agenda by the Board. This provision shall not preclude the Board from simply referring a public comment matter to Plan Administrator for such action as the Plan Administrator may deem appropriate under the Plan Administrator's authority.

d. Procedure for Public Comment.

(1.) Individuals wishing to speak on matters not on the Agenda, but pertinent to the administration of the Plan, may do so by raising their hands when asked to do so by the Chair, at the start of the Public Comment portion of the Agenda. The Chair shall recognize those persons who raise their hands.

(2.) An individual may designate a representative to speak for him or her or his or her group on a proposition if he or she so chooses.

(3.) The individual time limit for Public Comment shall be limited to three (3) minutes maximum per person; however, the Chair may, after due consideration for the importance of the subject, allow additional information to be presented by authorizing the speaker to continue for additional time. Once the three (3) minute timer commences to run, it shall not be abated for questions or interchanges.

(4.) Speakers may include written materials as part of their presentation by filing such materials with the Plan Administrator at the time of the speaker's oral presentation.

(5.) Each person who addresses the Board shall give his or her name and

address. No person, other than the Board and the person recognized by the Chair as having the floor, shall be permitted to enter into discussion without the permission of the Chair.

(6). All questions from the public to the Board shall be addressed through the Chair. The Board shall not be required to answer questions unless expressly required by applicable law.

Rule 5. Effect of Procedures. Nothing in these procedures shall establish or support any private right of action for the benefit of any member of the public. Further, the Board may by majority vote, at any time, waive the provisions of these procedures for a particular matter or particular matters.

Rule 6. Quasi-Judicial Proceedings. Quasi-judicial proceedings, such as disability and forfeiture hearings, are exempt from these Rules of Procedure and shall be governed by procedures adopted by the Board for such proceedings.

Adopted August 16, 2013