

# MEMORANDUM

Agenda Item No. 11(A)(7)

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**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** November 15, 2016

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution opposing state  
legislation that would revise the  
current Florida Retirement  
System to shift new employees  
into a 401(k)-style investment  
plan rather than the traditional  
pension plan

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.

  
\_\_\_\_\_  
Abigail Price-Williams   
County Attorney

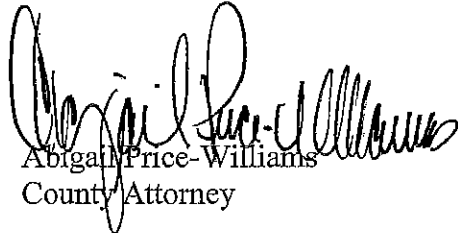
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(Revised)

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Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(7)  
11-15-16

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OPPOSING STATE LEGISLATION THAT  
WOULD REVISE THE CURRENT FLORIDA RETIREMENT  
SYSTEM TO SHIFT NEW EMPLOYEES INTO A 401(K)-  
STYLE INVESTMENT PLAN RATHER THAN THE  
TRADITIONAL PENSION PLAN

**WHEREAS**, the Florida Retirement System (FRS) was established in 1970 and is currently the fourth largest public retirement system in the United States; and

**WHEREAS**, as of Fiscal Year 2015, membership in the FRS totaled 735,418, of which 598,369 were active members; and

**WHEREAS**, FRS is the primary retirement system not only for employees of the State of Florida, but also for employees of all 67 Florida counties and district school boards, as well as 28 Florida state colleges and Florida universities; and

**WHEREAS**, the FRS also serves as the primary retirement system for employees of 186 Florida municipalities and 262 Florida independent special districts that have made an irrevocable election to participate in the FRS; and

**WHEREAS**, FRS members have two plan options available for participation: the defined benefit plan, commonly known as the traditional pension plan (the "Pension Plan"), and the defined contribution plan, commonly known as the investment plan (the "Investment Plan"), the latter of which is similar to the 401(k) retirement plans offered by many private employers; and

**WHEREAS**, FRS employers are responsible for contributing a set percentage of each employee's monthly salary to the FRS to fund the program, and employees in both the Pension Plan and Investment Plan are also required to contribute three percent of their salary to fund the program; and

**WHEREAS**, as of July 1, 2016, the Pension Plan was 85.4 percent actuarially funded, comfortably above the 80 percent benchmark generally identified for a healthy pension system; and

**WHEREAS**, a 2015 report released by the Mercatus Center at George Mason University ranked Florida fifth in the nation for financial fitness, based on the state's ability to pay current and future bills, and found Florida's Pension Plan to be one of the strongest in the nation; and

**WHEREAS**, in recent years, numerous bills have been filed during the state legislative session seeking to revise the FRS to shift new public employees into a 401(k)-style investment plan rather than the Pension Plan, either by closing the Pension Plan to new employees or by defaulting new employees into the Investment Plan rather than the Pension Plan; and

**WHEREAS**, while none of these bills passed, it is anticipated that similar legislation will again be filed for consideration during the 2017 state legislative session; and

**WHEREAS**, shifting new public employees into the Investment Plan from the Pension Plan is likely to lead to higher costs to maintain the current Pension Plan for both active and retired members and beneficiaries, thereby potentially undermining and destabilizing the long-term fiscal viability of the current Pension Plan by increasing the unfunded liability of the FRS pension fund; and

**WHEREAS**, if more new public employees are shifted into the Investment Plan, over time there are likely to be fewer and fewer employees for whom contributions are made to support the FRS pension fund and increasingly more employees for whom contributions are made to support their individual 401(k)-style investment accounts; and

**WHEREAS**, this likely increase in the unfunded liability of the Pension Plan will have to be addressed by one of, or some combination of, the following:

1. Increasing the contribution rates that the state, counties and other FRS employers pay to the Pension Plan,
2. Increasing the three percent contribution rates that employees enrolled in the Pension Plan pay, or
3. Reducing Pension Plan benefits for retirees and beneficiaries; and

**WHEREAS**, transitioning new public employees away from the Pension Plan into the Investment Plan could cost Miami-Dade County taxpayers millions of dollars over the long-term because Florida law requires counties, like all FRS employers, to pay an actuarially-determined rate for each employee to fund the Pension Plan; and

**WHEREAS**, these actuarially-determined rates are likely to increase if more new public employees are shifted into the Investment Plan and are thus no longer contributing to the FRS pension fund; and

**WHEREAS**, the Investment Plan would likely result in lower benefits for employees in retirement because the benefits would be based on a percentage of the employee's salary over his or her entire career, rather than the salary for the highest five or eight years as provided under the current Pension Plan; and

**WHEREAS**, the Investment Plan, like any 401(k)-style plan, is also more susceptible to market fluctuation, while the Pension Plan provides a stable, consistent source of income for retirees; and

**WHEREAS**, funds in a 401(k)-style investment plan are also more easily accessible than those in a traditional pension plan, and such ease of access to funds may lead employees to use the funds in their investment plans for expenses that may arise, thus defeating the purpose of setting aside these funds for retirement; and

**WHEREAS**, while this Board supports efforts to strengthen the current FRS, shifting new public employees away from the Pension Plan and into the Investment Plan is likely to increase the unfunded liability of the FRS pension fund and thus potentially destabilize the Pension Plan; and

**WHEREAS**, as evidenced by Resolution Nos. R-179-14, R-181-15 and R-150-16, this Board has consistently opposed state legislation that would revise the current FRS to shift new public employees into a 401(k)-style investment plan rather than the Pension Plan,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board:

**Section 1.** Opposes any legislation filed for consideration during the 2017 session of the Florida Legislature that would revise the current Florida Retirement System to shift new employees into a 401(k)-style investment plan rather than the traditional pension plan.

**Section 2.** Directs the Clerk of this Board to send a certified copy of this resolution to the Governor, Senate President, House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation, and the President and Executive Director of the Florida Association of Counties.

**Section 3.** Directs the County's state lobbyists to oppose the legislation set forth in section 1 above, and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2017 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Commissioner Rebeca Sosa. It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 15<sup>th</sup> day of November, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

MSM

Michael J. Mastrucci