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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(25)

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

DATE: February 2, 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

Resolution No. R-150-16

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

Abigail Price-Williams
County Attorney

APW/lmp

MEMORANDUM
(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)(25)
2-2-16

RESOLUTION NO. R-150-16

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 the fourth largest public retirement system in the United States, with approximately 1,000 participating public sector employers, almost 645,000 active employee members, and 365,000 retirees; 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, all 67 Florida district school boards, 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, members of the FRS 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

WHEREAS, employees in both the Pension Plan and Investment Plan are required to contribute three percent of their salary to fund the program; and

WHEREAS, as of July 1, 2015, the Pension Plan was 86.5 percent actuarially funded, comfortably above the 80 percent benchmark generally identified for a healthy pension system; and

WHEREAS, compared with other large states, Florida has the second-best funded public retirement system, trailing only New York, according to a study by the Leroy Collins Institute, a non-partisan Tallahassee-based think tank; and

WHEREAS, a 2011 report by the Florida Legislature's Office of Program Policy Analysis & Government Accountability (OPPAGA) found that the Pension Plan was in the top 10 most financially stable pension plans among the 50 states; and

WHEREAS, during the 2013 session of the Florida Legislature, Representative Jason Brodeur (R – Sanford) filed House Bill (HB) 7011 which sought to revise the FRS; and

WHEREAS, HB 7011 would have closed the Pension Plan to new public employees hired as of January 1, 2014 and required such new employees to enroll in the Investment Plan instead; and

WHEREAS, HB 7011 died on the Senate calendar when the Senate did not pass the bill before the end of the 2013 session; and

WHEREAS, on February 19, 2014, this Board adopted Resolution No. R-179-14, which opposed state legislation that would revise the current FRS to require new public employees to enroll in a 401(k)-style retirement plan rather than the Pension Plan; and

WHEREAS, during the 2014 session, bills again were filed that would have revised the FRS, Senate Bill (SB) 1114 by the Senate Community Affairs Committee, and HB 7181 by Representatives Jim Boyd (R– Bradenton) and Matt Caldwell (R– Lehigh Acres); and

WHEREAS, SB 1114 and HB 7181 would have changed the default plan for new public employees from the Pension Plan to the Investment Plan, and would have also extended the vesting period for the Pension Plan from eight years to 10 years; and

WHEREAS, SB 1114 also died on the Senate calendar when the Senate did not take up the bill before the end of the 2014 session; and

WHEREAS, on February 18, 2015, this Board adopted Resolution No. R-181-15, which urged the Florida Legislature to strengthen the current FRS to protect participants in the system, and 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; and

WHEREAS, House Speaker Steve Crisafulli (R– Merritt Island) has recently expressed interest in renewing efforts to change the default plan for new public employees from the Pension Plan to the Investment Plan; and

WHEREAS, as such, it is anticipated that bills similar to HB 7011 or HB 7181 will be filed for consideration during the 2016 session of the Florida Legislature that would shift new public employees into the Investment Plan rather than the Pension Plan; and

WHEREAS, shifting new public employees into the Investment Plan would make the FRS consistent with most private employers, which do not offer a traditional pension plan but rather a 401(k)-style plan; and

WHEREAS, nonetheless, transitioning new public employees towards the Investment Plan may undermine and destabilize the long-term fiscal viability of the current Pension Plan by increasing the unfunded liability of the FRS pension fund; and

WHEREAS, shifting new public employees away from the Pension Plan is likely to lead to higher costs to maintain the current Pension Plan for both active members as well as retired members and beneficiaries; 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 five highest 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, this Board opposes legislation that would shift new public employees into the 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 state legislation that would revise the current Florida Retirement System to shift new public 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 amend the 2016 State Legislative Package to include this item and 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 **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **José "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman **aye**
Esteban L. Bovo, Jr., Vice Chairman **aye**

Bruno A. Barreiro	**aye**	Daniella Levine Cava	**aye**
Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Dennis C. Moss	**aye**	Rebeca Sosa	**absent**
Sen. Javier D. Souto	**absent**	Xavier L. Suarez	**aye**
Juan C. Zapata	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of February, 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: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. MJM

Michael J. Mastrucci