



## Legislation Text

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File #: 20-758, Version: 1

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### CITY COUNCIL AGENDA ITEM

Memo Date: October 28, 2020  
Agenda Date: November 10, 2020  
Prepared By: Tammy B. Gemmati, PHR, Administrative Services Director  
Through: Stockton E. Whitten, City Manager  
Requested Action:

Approval of Ordinance No. 18-2020/2<sup>nd</sup> and Final reading: Related to Amending Chapter 2, Administration, Article VII Police Officers' Retirement Plan due to legislative and Internal Revenue Code compliance changes amending Section 2-196, Benefit Amounts and Eligibility; Section 2-197, Pre-Retirement Death; Section 2-200, Optional Forms of Benefits; Section 2-206, Minimum Distribution of Benefits; Section 2-207, Miscellaneous Provisions; Providing for incorporation into the Code; Providing for severability of provisions; Repealing all ordinances and resolutions in conflict herewith and providing an effective date.

#### **BACKGROUND:**

The City of Cocoa has an established Police Officers' Retirement Plan in accordance with Chapter 185, Florida Statutes for the benefit of the City's Police Officers.

In December 2019, United States Congress and President Trump signed into law the "Setting Every Community Up for Retirement Enhancement (SECURE) Act. This Act includes a number of federal tax law changes with the most significant change to increase the age for required minimum distributions in retirement plans from 70 ½ to 72.

The SECURE Act was presented and discussed at the August 19, 2020 pension board meeting and then the board's pension attorney Stu Kaufman of Office of Klausner, Kaufman, Jensen, and Levinson drafted an ordinance proposing code changes under Chapter 2, Administration, Article VII Police Officers' Retirement Plan of the City's Code. Also, included in the plan's proposed changes was to add a section that would allow the board to adopt an administrative policy to allow plan amendments related to Internal Revenue Code without taking an ordinance change to council.

This proposed ordinance was submitted to the City's pension attorney Jim Linn of Lewis, Longman & Walker for review. After this review, the proposed changes related to the board composition and SECURE Act were kept after slight tweaking of the language. However, Mr. Linn does not share the same opinion of the pension board making amendments related to the Internal Revenue Code without those plan amendments being adopted by City Council.

On October 2, 2020, Mr. Kaufman accepted Mr. Linn's recommendations; therefore, City staff recommends moving forward with the proposed ordinance.

A summary of the amendments to the pension plan in the proposed ordinance include:

The proposed ordinance includes the following amendments to the pension plan:

1. Section 2-196, Benefit Amounts and Eligibility, subsection (d) - Required distribution date is amended to ensure compliance under SECURE Act which amended Internal Revenue Code Section 401(a)(9) modifying the minimum age to require minimum distributions from the plan, from age 70 ½ to age 72 for members who attain age seventy and one-half (70 ½) before January 1, 2020 and age seventy-two (72) for members who attain age 70 ½ on or after January 1, 2020.
2. Section 2-197, Preretirement death, subsection (b)(5) - has also been amended for compliance under the SECURE Act where distributions to a qualifying spouse beneficiary will take place in which the member would have attained age seventy and one-half (70 ½) for members who attained such age before January 1, 2020 and age seventy-two (72) for members who attained age seventy-two (72) who attain age seventy and one-half (70 ½) after January 1, 2020.
3. Section 2-200, Optional Forms of Benefits, subsection (e)(5) - administrative change that complies with SECURE Act which edits the age criteria when a member's distribution of benefits must begin.
4. Section 2-206, Minimum Distribution of Benefits, subsection (b)(1) and (b)(2)(a) - administrative change that complies with SECURE Act which specifies the required beginning date of benefits for eligible members and the member's surviving spouse, if applicable.
5. Section 2-207, Miscellaneous Provisions, subsection (c) - administrative change that states the plan will comply with Treasury Regulations applicable to a government defined benefit retirement plan.

City Administration recommends approval of Ordinance No. 18-2020, due to legislative and Internal Revenue Code compliance changes in the Police Officers' Retirement Plan. The pension plan's actuary has provided a "no impact" statement, which has been provided to the State of Florida Division of Retirement Services.

City Council passed the first reading of Ordinance No. 18-2020 at the Regular City Council Meeting on October 27, 2020. There have been no additional changes since the first reading. The Ordinance shall be effective immediately upon adoption by the City Council after the second reading and the changes will be incorporated into the City's Code.

#### **STRATEGIC PLAN CONNECTION:**

NA

**BUDGETARY IMPACT:**

NA

**PREVIOUS ACTION:**

At a Regular City Council Meeting on October 27, 2020, Council approved the first reading of Ordinance No. 18-2020, related to Amending Chapter 2, Administration, Article VII Police Officers' Retirement Plan due to legislative and Internal Revenue Code compliance changes amending Section 2-196, Benefit Amounts and Eligibility; Section 2-197, Pre-Retirement Death; Section 2-200, Optional Forms of Benefits; Section 2-206, Minimum Distribution of Benefits; Section 2-207, Miscellaneous Provisions; Providing for incorporation into the Code; Providing for severability of provisions; Repealing all ordinances and resolutions in conflict herewith and providing an effective date

At a Regular City Council Meeting on June 26, 2019, Council approved an Ordinance change related to terms of the pension board members.

**RECOMMENDED MOTION:**

Approval of Ordinance No. 18-2020/2<sup>nd</sup> and Final reading: Related to Amending Chapter 2, Administration, Article VII Police Officers' Retirement Plan due to legislative and Internal Revenue Code compliance changes amending Section 2-196, Benefit Amounts and Eligibility; Section 2-197, Pre-Retirement Death; Section 2-200, Optional Forms of Benefits; Section 2-206, Minimum Distribution of Benefits; Section 2-207, Miscellaneous Provisions; Providing for incorporation into the Code; Providing for severability of provisions; Repealing all ordinances and resolutions in conflict herewith and providing an effective date.