ORDINANCE NO. 2013-49

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 70 ENTITLED "RETIREMENT AND PENSIONS", ARTICLE VII. ELECTED OFFICIALS, DIVISION 1 GENERALLY, OF THE CODE OF ORDINANCES, AND IN PARTICULAR, ADDING A NEW SECTION, HIALEAH CODE § 70-351 ENTITLED "CLOSURE FOR NEW ENTRANTS AND REENTRANTS" TO CLOSE OR TERMINATE THE ELECTED OFFICERS RETIREMENT TRUST FOR NEW ENTRANTS AS OF JANUARY 1, 2014 AND REENTRANTS WHO ARE RELECTED OR REHIRED AFTER A BREAK OF SERVICE AFTER JANUARY 1, 2014 AND REVISING HIALEAH CODE § 70-350 ENTITLED "CONTRIBUTIONS" ESTABLISHING A SEVEN PERCENT (7%) PARTICIPANT CONTRIBUTION BASED ON ANNUAL COMPENSATION COMMENCING ON JANUARY 1, 2014 FOR NEW YEARS OF SERVICE FOR NON-VESTED PARTICIPANTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the purpose and intent of this ordinance is to amend the Retirement Code to (1) eliminate the Elected Officers' Retirement Trust for new entrants as of January 1, 2014 and for reentrants who are reelected and rehired after a break of service after January 1, 2014; (2) allow elected officials and eligible employees that are currently enrolled in the Elected Officers Retirement Trust as of December 31, 2013 to continue their participation and eligibility; (3) require a 7% contribution by participants for all future years or portions of years of service for non-vested participants commencing on January 1, 2014; and (4) a participant who makes a contribution but does not become eligible for or receives retirement benefits shall be entitled to a refund with 3% compounded interest ; and

WHEREAS, Gabriel Roeder Smith & Company prepared an actuarial impact statement and concluded that there is positive actuarial impact with respect to the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 70 entitled "Retirement and Pensions", Article VII. Elected Officials, Division 1. Generally, of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 70

RETIREMENT AND PENSIONS

* * *

ARTICLE VII. ELECTED OFFICIALS

DIVISION 1. GENERALLY

Sec. 70-526. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Contribution means the sum of all amount contributed by the city on behalf of an elected officer <u>except when describing the elected officer contribution.</u>

* * *

Sec. 70-530 Contributions.

The elected officers' retirement trust shall be a noncontributory system <u>for vested participants enrolled in the elected officers' retirement trust as of January 1, 2014. The elected officers' retirement trust shall be a contributory system as of January 1, 2014 for all participants, who have not vested as of January 1, 2014. Every non-vested participant, as described above, shall contribute seven percent of the participant's annual compensation to the trust fund for each future year of eligible service or portion thereof commencing on January 1, 2014. Upon separation from city service, a participant shall have the right to receive upon request a refund of the participant's contributions contributed to the trust fund with interest at the rate of three percent compounded</u>

annually. A participant who receives a refund of the participant's contributions pursuant to this section shall not thereafter be eligible for any benefit from the elected officers' retirement system.

Sec. 70-531. Closure for new entrants and reentrants.

As of January 1, 2014, no new participants may enter the elected officers' retirement trust. Participants who have elected to and are participating in the elected officers' retirement trust as of December 31, 2013 may continue participation in the trust. Any elected official or eligible employee who is reelected or rehired after a break in service after January 1, 2014 cannot reenter the elected officers' retirement trust and receive any additional service time in the elected officers' retirement trust.

Sec. 53~~1~~2. Appropriation of funds.

The city shall appropriate and provide in its annual budget sufficient moneys, as determined by an actuary, to meet the requirements of this article.

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Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: **Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered, as appropriate, to conform to the uniform numbering system of the Code.

Section 5: **Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: **Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 27 day of August, 2013.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 28 day of Aug, 2013.

Marbelys Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".

~~Strikethrough~~ indicates deletion. Underline indicates addition.