

M E M O R A N D U M

To: Town Commission
From: Tom Harmer, Town Manager
Report date: May 27, 2021
Meeting date: June 7, 2021
Subject: Ordinance 2021-02, Amending Chapter 34.50, Firefighters' Retirement System, *Disability*

Recommended Action

Adopt Ordinance 2021-02 as amended.

Background

In 2019, the Florida Legislature passed Chapter 2019-21, Laws of Florida, which mandates certain employer-funded cancer benefits for Firefighters. Firefighters who are diagnosed with certain cancers are eligible to receive certain disability or death benefits. Specifically, in lieu of pursuing workers' compensation coverage, a firefighter is entitled to cancer treatment and a one-time cash payout of \$25,000, upon the firefighter's initial diagnosis of cancer.

In order to be entitled, the firefighter must:

- Be employed full-time as a firefighter;
- Be employed by the State, university, city, county, port authority, special district, or fire control district;
- Have been employed by his or her employer for at least five continuous years;
- Not have used tobacco products for at least the preceding five years; and
- Have not been employed in any other position in the preceding five years which is proven to create a higher risk for cancer.

The employer must provide coverage within an employer-sponsored health plan or through a group health insurance trust fund. The employer must timely reimburse the firefighter for any out-of-pocket deductible, co-payment, or coinsurance costs incurred due to the treatment of cancer.

For disability and death benefits, the employer must consider a firefighter permanently and totally disabled if diagnosed with one of the 21 enumerated cancers and meets the retirement's plan definition of totally and permanently disabled due to the diagnosis of cancer or circumstances that arise out of the treatment of cancer. Moreover, the cancer or the treatment of cancer is deemed to have occurred in the line of duty, resulting in higher disability and death benefits.

The legislation created §112.1816, Florida Statutes and as applied to the Town's Consolidated Retirement System, it provides that firefighters who are permanently and totally disabled as a result of certain specified types of cancers, or the treatment of those

cancers are considered to be disabled in the line of duty. The Board of Trustees for the Town of Longboat Key Consolidated Retirement System has recommended that the Town adopt this ordinance amending the Firefighters' Retirement System to incorporate the State cancer benefits law for firefighters into the Town's Code.

The proposed Code language was prepared by the Board of Trustees' legal counsel, Ron Cohen and reviewed by the Consolidated Retirement System Board of Trustees at its February 17, 2021 quarterly meeting. The Board of Trustees notified the Town staff of the requested change. The Town Manager and Town Attorney reached out to the Town's special counsel for pension matters (Jim Linn of Lewis, Longman & Walker) to review the proposed language on behalf of the Town. Mr. Linn agreed with the inclusion of the substantive language in the Code, but recommended that it be inserted as a newly created paragraph, Subsection (B)(3) of Section 34.50 of the Code.

Ordinance 2021-02, amends Town Code Chapter 34 Employment Policies, Section 34.50 Disability, to include language providing such benefit, as a newly created paragraph in the Town Code, in accordance with F. S. §112.1816.

Following first reading of Ordinance 2021-02, a Commissioner requested additional clarification relating to the qualified participants eligible for the benefit provided in the amendment to Section 34.50 of the Code. To address that specific inquiry and clarify that only firefighters who are currently employed by the Town who elected to stay in the Town's retirement plan when the plan was frozen in 2013, the following highlighted text has been proposed for the Town Commission's consideration.

(B) In-line of Duty presumptions.

(3) Any member who is actively participating in the Town's Firefighters' Retirement System and shall become totally and permanently disabled as the result of a diagnosis of cancer as defined in F.S. § 112.1816, or circumstances arising from the treatment of such cancer shall be considered by the Board to have suffered a line-of-duty disability.

The above language would apply to five (5) active members of the Town's Firefighter Retirement System plan. The above language would not include vested terminated members or those firefighters who are in the Florida Retirement System (FRS). The above highlighted language has been reviewed and approved by the Town Commission's pension counsel (Jim Linn), the Town Pension Board's counsel (Ron Cohen) and the Town Attorney. The Town Commission is being asked to further amend the proposed code language in Ordinance 2021-02 to incorporate the additional clarification noted above.

Ordinance 2021-02 was presented at the May 3, 2021 Regular Meeting and forwarded to the June 7, 2021 Regular Meeting for second reading and public hearing.

Staff Recommendation

Adopt Ordinance 2021-02 as amended.

Attachments

Ordinance 2021-02 (Available in Town Clerk's office)

End of Agenda Item