

Sponsored by: Worthington

**CITY OF MARATHON, FLORIDA
RESOLUTION 2012-01**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MARATHON, FLORIDA, SUPPORTING FIREFIGHTER DISABILITY
PRESUMPTION REFORMS TO MAKE PENSION PLAN AND WORKERS'
COMPENSATION BENEFITS SUSTAINABLE FOR CURRENT AND
FUTURE FIREFIGHTERS; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City of Marathon (the "CITY") deeply honors and respects the services provided and sacrifices made by firefighters, and desires to provide current and future firefighters with a pension and workers' compensation system that is sustainable. The City also desires to protect local taxpayers from unsustainable and unsound pension and workers' compensation expenses. The City supports responsible reforms that protect pensions and workers' compensation benefits so they will be there for future generations of firefighters and safeguard taxpayer dollars; and

WHEREAS, the Florida Legislature has provided that health conditions relating to heart disease, hypertension or tuberculosis suffered by a firefighter are presumed to be job related. These disability presumptions are applicable to both workers' compensation and disability pension claims and have introduced significant opportunities for abuse in the workers' compensation and firefighter pension systems. Courts have interpreted the presumption laws so favorably toward these employees that cities and other government employers basically cannot overcome the presumption and show the health condition was not work related; and

WHEREAS, a Task Force on Public Disability presumptions is currently meeting to make findings and recommendations to the Legislature. Changes to disability presumption laws being considered by the Task Force include requiring an employee to meet age and employment requirements, allowing a presumption to be overcome by a preponderance of evidence, and allowing certain individual risk factors to be considered when applying the presumption, such as tobacco use, weight/diet, genetics and lifestyle choices. All of these proposals are designed to bring a fairer balance to the application of presumption laws; and

WHEREAS, it is important to remember that just because an individual does not have a disability presumption does NOT mean they cannot make a workers' compensation or disability pension claim. Rather, it just means that the individual must show the health condition is work related, just like every other employee who makes a workers' compensation or pension claim; and

WHEREAS, HB 365 by Representative Fred Costello and SB 910 by Senator Alan Hays have been filed for consideration during the 2012 legislative session. HB 365 and SB 910 would responsibly promote increased firefighter pension and workers' compensation stability, security and

sustainability by making the following changes to current state law:

1. **Collective Bargaining Over Retirement Benefits and Revenues:** Allow cities and firefighter unions to collectively bargain the retirement benefits provided pursuant to, and the use of insurance premium tax provided pursuant to, and the use of insurance premium tax revenues provided under, Chapters 175 or 185, Florida Statutes.

2. **Alternative Retirement Plans:** Allow cities to unilaterally transition to a defined contribution plan, the Florida Retirement System, or another retirement program for firefighters and continue to receive insurance premium tax revenues to pay for the retirement expenses.

3. **Boards of Trustees Fiscal Transparency and Accountability:** Require statutorily created firefighter pension boards of trustees to adopt and operate under an administrative expense budget, and require a detailed accounting of pension boards of trustees' expenses.

4. **Fiscally Responsible Retirement Plan Termination:** Require firefighter pension boards of trustees and cities to work together for a fiscally responsible distribution of plan assets if a city must terminate its firefighter retirement plan.

5. **Disability Presumptions:** Reform current statutory disability presumptions for firefighters relating to health conditions caused by tuberculosis, heart disease or hypertension to require the employee to meet age and employment requirements, allow the presumption to be overcome by a preponderance of evidence, and allow certain individual risk factors to be considered when applying the presumption.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, that:

Section 1. The City hereby supports firefighter pension and disability presumption reforms in general, and as more specifically provided in HB 365 and SB 910 for the 2012 Florida legislative session.

Section 2. The City hereby requests the Florida Legislature to amend current statutory disability presumptions for firefighters relating to health conditions caused by tuberculosis, heart disease or hypertension to require the employee to meet age and employment requirements, allow the presumption to be overcome by a preponderance of evidence, and allow certain individual risk factors to be considered when applying the presumption.

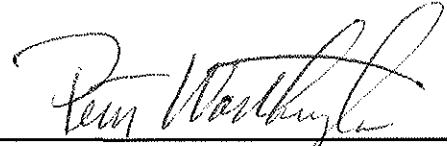
Section 3. The City urges the Florida Legislature to pass and the Governor to approve the above responsible reform recommendations relating to firefighter pension plans and disability presumptions in the 2012 legislative session.

Section 4. The City Clerk is directed to transmit a copy of this resolution to Governor Rick Scott, the Florida Legislature, and the Florida League of Cities, Inc.

Section 5. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 10th day of JANUARY, 2012.


THE CITY OF MARATHON, FLORIDA



Mayor Pete Worthington

AYES: Cinque, Keating, Ramsay, Snead, Worthington
NOES: None
ABSENT: None
ABSTAIN: None

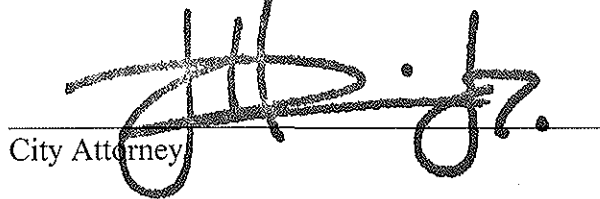
ATTEST:



Diane Clavier, City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



City Attorney