



MEMORANDUM

Office of the City Attorney

002184

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TO: Mayor and City Commissioners **DATE:** December 10, 2001

FROM: City Attorney **CONSENT**

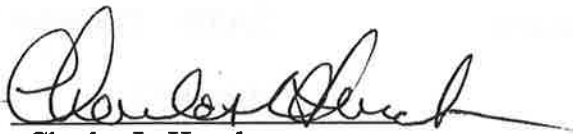
SUBJECT: Designating the Mayor and City Commissioners for inclusion in the Florida Retirement System Elected Officers' Class


Recommendation: Defer consideration of the Elected Class Designation until additional information is obtained and provided regarding this item.

The 2001 Florida Legislature amended the Florida Retirement System (FRS) in various ways, one of which amended Section 121.052(3)(e) to read, "Effective July 1, 2001, the governing body of a municipality or special district may, by majority vote, elect to designate all its elected positions for inclusion in the Elected Officers' Class. Such election shall be made between July 1, 2001, and December 31, 2001, and shall be irrevocable. The designation of such positions shall be effective the first day of the month following receipt by the department of the ordinance or resolution passed by the governing body." Prior to October, the Division of Retirement took the position that in order for a previously non-participating municipality to elect to include its Elected Officials, the municipality would also need to include one of the other broader units, i.e. General, Police and Fire.

On November 13, 2001, the City Commission directed the City Attorney's Office to prepare a resolution, which would allow the Commission to designate its members eligible to participate in the Elected Officers' Class during the "window period" apparently provided in Section 121.052(3)(e) above, i.e. before December 31, 2001. Subsequent to that date, the Division of Retirement has advised that their interpretation of the above statutory section is that the December 31, 2001 restriction only applies to special districts or municipalities who already had one or more units participating in FRS. That is, as of late November, the Division of Retirement's position is that the City may avail itself of the opportunity to allow its elected officials to participate in FRS's Elected Officers' Class, by making the required designation at any time.

Under the above circumstances, there is time to obtain additional information and research regarding all the ramifications of this designation. This can then be shared with the Mayor and Commissioners. The matter could be brought back to the Commission at a later date, if the Commission wishes.

Prepared by: 
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Approved and
Submitted by: 
Marion J. Radson
City Attorney

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