



El Paso Firemen and Policemen's Pension Fund Request

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Matter No. HighQ #3676

Summary

The Firemen and Policemen's Pension Fund Board requested:

Annual automatic 1.5% Cost of Living Adjustment (COLA) for tier 2 retirees



Issue 1: They have not complied with the statutory process (Sequential order)

Required to have participants vote



Issue 2: Whether the COLA is supported by existing funding status

Letter indicates (1) negative impact on pension fund and (2) recommends implementing COLA with City Contribution increases, which are barred by current law

Financial Impact

Annual Automatic 1.5% Cost of Living Adjustment

Estimated First Full Year:

Fire Department

• \$2,875,789

Police Department

• \$3,207,211

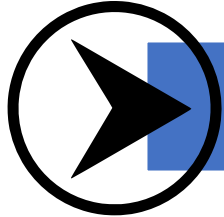
Total:

• \$6,083,000

Statutory Process for new benefit

Must follow sequentially:

Qualified actuary selected by 4/5 vote of the Board



Change must include actuarial report showing it is supported by the **existing funding status of the fund (assets - benefit obligation)** - October 11

Participants must approve by majority vote by blind ballot with 10 days notice

Change must be submitted to Council to approve or deny.

If denies, or no action within 60 days, Board may demand an election

Initial submission – September 12, 2024



- Previous submission did not follow this process:
 - Actuary letter showing City contribution needed to fund COLA – 2.5% increase to PD and a 3.25% increase to fire.
 - this is the wrong question – must be supported by existing funding status
 - Police officer and firefighter participants vote for COLA funded solely by City contribution
 - Board approved of COLA funded solely by City contribution
 - Submitted for Council action – allege need answer in 60 days or can force an election to increase City contribution
- City Manager notified Executive Director actuary report is incorrect.

New Letter from Actuary – Oct. 11, 2024



Does not seem to be supported by existing funding status

Increases the years to amortize (liability payoff period)

Recommends and relies on City changing law to contribute full cost

Projected Pension Fund Impact from Proposal without Increasing City Contributions

Payoff Period (Years to Amortize)		
	Current	W/ COLA*
Police	20	24
Fire	21	26

Source: Letter dated October 11, 2024 from Rudd and Wisdom, Inc.



Actuary's Oct. 11, 2024 Letter

“Technically, Section 10A(b)(1) would be satisfied without an increase in *current* city contribution policy [*sic*] because the payoff periods do not exceed 30 years. **Therefore, the benefit change of adding the COLA is supported by the existing funding status of the fund.**” (italics added) **HOWEVER:**



The actuary finding is based on assumption that law will change “to allow the [C]ity to increase its contribution rates to the two funds as we determined in the February 14, 2024 study” [adding 2.5% to PD and 3.25% to FD]



The actuary **strongly recommends** the City pay for the COLA for the 5 reasons listed

Actuary's Oct. 11, 2024 Letter cont'd



“The closer the pay off period is to 30 year, (a) the smaller is a fund’s cushion for adverse experience and (b) the more sensitive it is to adverse experience.”



Both funds had a large loss in value in 2022 that are being recognized over 5 years – without enough favorable investment, payoffs could become somewhat higher



The next actuarial study will likely include changes in demographic assumptions that could increase liability of the funds

Actuary's Oct. 11, 2024 Letter cont'd



“...the proposed COLA change can be made and still comply with [the law] without the city’s current adoption of its intended contribution rate increases”



“especially in light of the city’s representation that it will work with the Fund to seek a legislative change...”



“The Fund Board of Trustees has a fiduciary duty to consider the recommendations of its consulting actuarial firm for the long-term success and sustainability of the funds.”

Public Funds/Contribution increases

- No increase unless voter approved; or (Tex. Rev. Civ. Stat. Article 6243b, Section 14)
- IF: qualified actuary finds liability payoff period exceeds 40 years, then: Council *may* authorize an increase
 - An increase to the member contribution rate is also required
 - Combined increase must not exceed the rate determined necessary to payoff the liability in 40 years. (Tex. Rev. Civ. Stat. Article 6243b, Section 14A)

Home-Rule Authority

- Home-Rule City can act not inconsistent with the Constitution or State laws. Texas Constitution Article 11, Section 5
- While a home rule city [] has all the powers of the state not inconsistent with the Constitution, the general laws, or the city's charter, [] these broad powers may be limited by statute when the Legislature's intention to do so appears "with unmistakable clarity." [Proctor v. Andrews, 972 S.W.2d 729, 733](#) citing, e.g., *Dallas Merchant's and Concessionaire's Ass'n v. City of Dallas*, 852 S.W.2d 489, 490-491 (Tex. 1993); *City of Sweetwater v. Geron*, 380 S.W.2d 550, 552 (Tex. 1964)

In Summary

- State law does not allow the City to increase its contribution as requested or recommended by actuary
- Pension Fund's future funding status would be impacted if they move forward with this COLA
- Cannot act until all statutory steps are followed

Mission

Deliver exceptional services to support a high quality of life and place for our community

Values

Integrity, **R**espect, **E**xcellence,
Accountability, **P**eople

Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government