

## Senate Bill No. 2592

An act relating to the City of Tampa, Hillsborough County; repealing s. 4(F), chapter 23559, Laws of Florida, 1945, as amended, relating to the definition of casual laborer; amending s. 4, chapter 23559, Laws of Florida, 1945, as amended; revising the definition of “temporary employee,” “continuous service,” and “average monthly salary”; repealing s. 5(C), chapter 23559, Laws of Florida, 1945, as amended, relating to clerical and medical examination expenses; amending s. 5, chapter 23559, Laws of Florida, 1945, as amended; providing for employer contributions to fund the costs of administering the plan; amending s. 6, chapter 23559, Laws of Florida, 1945, as amended; providing for additional authorized investments; amending s. 12, chapter 23559, Laws of Florida, 1945, as amended; revising death benefits; repealing s. 13, chapter 23559, Laws of Florida, 1945, as amended, relating to cost-of-living increase; and creating a new s. 13 to provide additional cost-of-living adjustments; amending s. 18, chapter 23559, Laws of Florida, 1945, as amended; revising the time in which temporary employees are required to obtain a physical examination; amending s. 20, chapter 23559, Laws of Florida, 1945, as amended; proscribing the assignment of a refund of contributions; creating s. 22, chapter 23559, Laws of Florida, as amended, providing for a Deferred Retirement Option Program; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsection (F) of section 4 of chapter 23559, Laws of Florida, 1945, as amended, is repealed, subsections (G), (H), and (J) of said section are amended, and subsections (G), (H), (I), (J), (K), (L), (M), (N), (O), and (P) are renumbered as subsections (F), (G), (H), (I), (J), (K), (L), (M), (N), and (O), respectively, to read:

Section 4. Definitions.

~~(F)~~~~(G)~~ Temporary employee. An employee whose period of employment is not contemplated to extend beyond 180 ~~90~~ days from the date of employment. Temporary employees will only be considered part of this pension plan if their employment extends beyond the 180 ~~90~~ day period and they are required to take a physical examination pursuant to section 18 of this act.

~~(G)~~~~(H)~~ Continuous service. The term “continuous service” or service continuously or continuous shall mean unbroken service by an employee immediately preceding the date of application for retirement, except for temporary interruptions of service caused by military service, illness, or involuntary severance from service through no fault of the employee, and provided he or she is reinstated. Time spent upon an authorized leave of absence by a member of a recognized bargaining unit for union business which is participated in by the recognized bargaining unit for general city employees or time spent on any leave of absence shall not constitute a break in service and

the time so spent shall be deemed to be continuous service.; However, ~~credit towards retirement for Division A employees will not be assigned to that time so spent~~ upon an authorized leave of absence by a member of a recognized bargaining unit for union business shall not be creditable unless the individual, ~~if in Division A,~~ pays into the pension fund on a biweekly bi-weekly basis an amount equal to the aggregate contributions such employee would have made and such amounts the city would have paid into the fund based on the salary such employee would have earned had he or she not been on an authorized union leave of absence. For the purposes of this act, the terms “service” and “continuous service” shall have the same meaning and shall be used interchangeably.

(I)(J) Average monthly salary. The average monthly salary shall be determined by calculating the average of an employee’s salary for the highest 3 of the last 10 years of continuous service employment ending on the date of retirement, and dividing by 12. In the event an employee does not have 10 years service at the time his or her average monthly salary is calculated, the average for the highest 3 of the total number of years employed shall be used for this definition. If the employee does not have 3 years service, the average for years employed shall be used.

Section 2. Present subsection (C) of section 5 of chapter 23559, Laws of Florida, 1945, as amended, is repealed, subsection (B) of said section is amended, and subsection (D) is renumbered as subsection (C), to read:

#### Section 5. Contributions.

(B) Employer contributions. Contributions of the city shall consist of the amount of moneys necessary, when combined with employee contributions, to maintain a level of funding adequate to enable payment of the benefit amounts prescribed by the plan, ~~and to pay the yearly amortization of any accrued unfunded liability, and to fund the costs of administering the plan.~~ Employer contributions shall be placed in the fund established pursuant to this act.

Section 3. Section 6 of chapter 23559, Laws of Florida, 1945, as amended, is amended to read:

Section 6. Administration. The administration of this fund shall be in charge of a pension or retirement board, consisting of seven members who shall be designated as trustees of the pension or retirement fund (“board of trustees”). Three members of this board shall be appointed by the Mayor or Executive Head of the City of Tampa. Three members of this board shall be employees participating in this fund elected by the members of the fund. However, not more than one employee member shall be elected from the same department of the employer. In the event that two or more candidates from the same department should receive sufficient number of votes for election, then only the candidate receiving the highest number of votes among the candidates from the same department shall be elected. The director of finance shall be the seventh member of this board. The three members of this board to be appointed by the mayor or executive head of the ~~said~~ city, shall be appointed immediately after the passage of this act, and they shall qualify within 30 days thereafter. One member appointed by the mayor or

executive head of the city shall serve for a period of 3 years, one member for a period of 2 years, and one member for a period of 1 year. Three members of this board shall be elected by the employees who are beneficiaries of this fund. One member elected shall serve for a period of 3 years, one member for a period of 2 years, and one member for a period of 1 year. At the expiration of the term of office of each member appointed, the mayor or executive head of the city shall appoint his or her successor to serve for a term of 3 years. Thirty days prior to the expiration of the term of office of each member elected, a successor shall be elected by the said employees and shall take office upon the expiration of his or her predecessor's term and shall serve for a term of 3 years. Vacancies on the pension or retirement board before the expiration of the term of office shall be filled in the same manner as prescribed for members replacing those whose term of office expires for the period of the unexpired time. The board shall have the power to adopt and prescribe reasonable rules, regulations, and orders necessary and proper for effective administration and enforcement of this act and for the election of trustees. ~~The director of finance~~ The treasurer of the city shall be the treasurer of the board and he or she shall give bond as may be prescribed by the board. The city attorney shall be the legal advisor of the board. The compensation of all persons engaged by the city for the board of trustees and all other expenses of the board of trustees necessary for the administration of the plan shall be paid out of the fund at such rates and in such amounts as the board of trustees shall approve, but in no case shall the expenditures for such compensation and administration exceed .5 percent of the maximum of the fund each fiscal year. The funds shall be managed by said trustees and shall be invested by the trustees in accordance with the following:

(A) That the board of trustees shall retain the services of one or more ~~nationally~~ recognized professional investment counselors or state or national banks in the State of Florida offering qualified and competent investment advisory services. Said banks must be capitalized at not less than \$10 million, having trust assets aggregating not less than \$150 million in value, and having not less than 500 trust accounts.

(B) That not less than once every 6 months a written opinion shall be obtained from the investment counselor or counselors as to the overall condition and composition of the investment portfolio.

(C) That the portfolio, representing the principal or surplus funds of the pension fund may be invested in the following securities or other property, real or personal, including, but without being limited to, bonds, notes, or other evidences of indebtedness issued, or assumed or guaranteed in whole or in part by the United States or any of its agencies or instrumentalities; or by any foreign government or political subdivisions or agencies thereof ~~the Dominion of Canada or any of its provinces, cities or municipal corporations;~~ or by the State of Florida, or by any county, city, school district, municipal corporation, or other political subdivision of the State of Florida, both general and revenue obligations; in mortgages and other interests in realty and shares or certificates of real estate investment trusts; or in such corporation bonds, notes, or other evidences of indebtedness, and corporation stocks including common and preferred stocks, or any corporation cre-

ated or existing under the laws of the United States, of any of the states of the United States or, ~~of the Dominion of Canada or, if the securities are listed on the New York Stock Exchange,~~ of any foreign government or political subdivisions or agencies thereof; ~~country,~~ provided:

1. The board of trustees shall cause actuarial surveys of the plan to be made from time to time as deemed necessary or as required by state law, by a competent actuary to be selected by the board of trustees ~~and the cost of same shall be provided for in the same manner as the cost of medical examinations and clerical expenses in Section 5.~~

2. In making each and all of such investments the board of trustees shall exercise the judgment and care under the circumstances then prevailing which men or women of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as probable safety of their capital; ~~provided, However, that not more than 65 percent of said fund, based on the total book value of all investments held, shall be invested at any time in common and/or preferred stocks, and that not more than 10 percent of said fund shall be invested at any given time in the preferred and/or common stock of any one corporation and its affiliates; and that not more than 5 percent of the outstanding stock of any one corporation and its affiliates shall be held by the fund at any given time; and that corporation bonds, notes, or other evidences of indebtedness commonly referred to as "fixed income investments," must hold a rating in one of the four ~~three~~ highest classifications by a major rating service and corporation bonds, notes, or other evidences of indebtedness with an equity conversion provision used as an equity substitute are not required to hold a rating in one of the four highest classifications by a major rating service.~~

3. Anything in this chapter to the contrary notwithstanding, the board of trustees may also invest the principal or surplus funds of the pension fund, without limitations, in appropriate contracts of life insurance or group annuities, with insurers duly licensed to do business in Florida, including any such contract or contracts which provide for the placement of funds in separate accounts maintained by any such insurer in accordance with the laws of Florida controlling such accounts.

Section 4. Subparagraphs b. and f. of paragraph 1. of subsection (A) and paragraph 4. of subsection (B) of section 12 of chapter 23559, Laws of Florida, 1945, as amended, are amended to read:

#### Section 12. Death benefits.

##### (A) Division A employees:

1. Should any retired employee or active employee, regardless of age, having earned pension credit and participated in this fund, die and leave a widow or widower, and/or a child or children under the age of 18 years, or one or both solely dependent parents, then the trustees shall authorize and direct payment of a pension to the widow or widower, and/or child or chil-

dren, or the parent or parents, but only in the following amounts and on the following conditions:

b. To the children, a pension of ~~\$100~~ \$15 per month for each child until said child or children shall marry or reach the age of 18 years; ~~provided,~~ however, combined payments to the widow or widower, and/or children shall not exceed the maximum pension the employee had earned at the time of his or her death.

f. Children who are orphaned shall receive equally a monthly pension equal to 75 percent of the employee's accrued pension until they marry or reach the age of 18 years, or die. Upon said children reaching the age of 18 years, if there is a balance in the employee's contribution account, said balance shall be paid in a lump sum to his or her legal heirs ~~said children~~ equally.

(B) Division B employees:

4. No pension shall be allowable to any spouse pursuant to the provisions of this subsection unless she or he was married to the deceased employee on ~~prior to~~ the date of retirement of the employee.

Section 5. Present section 13 of chapter 23559, Laws of Florida, 1945, as amended, is repealed, and a new section 13 is added to said chapter, to read:

Section 13. Cost-of-living adjustment.

(A) The purpose of this section is to provide cost-of-living adjustments to the monthly pension benefits due all retired employees of this plan.

(B) On October 1, 1999, a single adjustment shall be made to the pension benefit due each employee who retired before January 1, 1975, from active service, and the beneficiaries thereof, such that the amount of the monthly pension benefit due such employees and beneficiaries on October 1, 1999, shall be the amount of the retired employee's or beneficiary's monthly benefit being received on September 30, 1999, plus an amount, compounded annually from such employee's date of retirement from active service until January 1, 1999, equal to 1 percent of such benefit.

(C) Commencing January 1, 2000, and each January 1 thereafter, the pension benefit due each retired employee or beneficiary shall be adjusted as follows:

1. For those retired employees, and beneficiaries thereof, in Division A, the amount of the monthly pension benefit due for the 12-month period commencing on the adjustment date shall be the amount of the retired employee's or beneficiary's monthly benefit being received on December 31 immediately preceding the adjustment date plus an amount equal to 2 percent of such benefit.

2. For those retired employees, and beneficiaries thereof, in Division B, the amount of the monthly pension benefit due for the 12-month period commencing on the adjustment date shall be the amount of the retired

employee's or beneficiary's monthly benefit being received on December 31 immediately preceding the adjustment date plus an amount equal to 1 percent of such benefit.

Section 6. Section 18 of chapter 23559, Laws of Florida, 1945, as amended, is amended to read:

Section 18. Physical examination. All persons employed by the City of Tampa after the passage of this act shall be required to pass a physical examination conducted by a duly qualified physician or surgeon, or board of physicians or surgeons, to be selected by the trustees of this fund for that purpose and by said physician or surgeon, or board of physicians or surgeons, found and certified to be mentally and physically qualified for such employment. Those holding employment with the City of Tampa before the passage of this act shall not be required to take a physical examination as before stated. Once he or she has passed the physical examination the employee shall immediately become a member of the plan. However, a temporary employee shall not be given a physical examination until 180 90 days after his or her date of employment.

Section 7. Section 20 of chapter 23559, Laws of Florida, 1945, as amended, is amended to read:

Section 20. Exemptions. The pensions or other benefits accrued or accruing to any person under the provisions of this act, and the accumulated contributions and the cash securities in the funds created under this act, are hereby exempted from any state, county or municipal tax of the State of Florida, and shall not be subject to execution or attachment or to any legal process whatsoever, and shall be unassignable ~~except that an employee may assign to the Tampa City Employees Federal Credit Union, of which he is a member, his right to a refund of accumulated contributions in the event he resigns or is discharged before becoming qualified for retirement.~~

Section 8. Section 22 is added to chapter 23559, Laws of Florida, 1945, as amended, to read:

Section 22. Deferred Retirement Option Program. Notwithstanding any other provisions of this act, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is an option under which an eligible member may elect, commencing on October 1, 1999, to have the member's pension benefits calculated as of a certain date prior to retirement, and accumulate benefits plus the investment return pursuant to this section during the DROP calculation period. Participation in the DROP does not guarantee employment for the DROP calculation period, as defined in this section.

(A) Eligibility. In order to be eligible for the DROP option, the member must meet the following eligibility criteria:

1. The member must have attained the age of 55 years and at least 10 years of continuous service at the time the member files an election under this section. A member is eligible for accumulations pursuant to the DROP for a maximum of 7 years.

2. The member must meet all eligibility requirements for pension benefits, other than separation from service as an employee of the city.

3. Upon electing to participate in the DROP, the member shall submit on forms required by the city and the board of trustees:

a. An irrevocable written election to participate in the DROP, specifying a DROP benefit calculation date. The DROP benefit calculation date is used to determine the DROP calculation period, which commences on the DROP benefit calculation date and ends on the earlier of the member's separation from service or death;

b. An irrevocable notice of employment termination to take effect upon the expiration of the DROP calculation period; provided that a DROP participant shall not be precluded from voluntarily terminating employment with the city before the expiration of the DROP calculation period, nor shall the city be precluded from terminating such DROP participant's employment as applicable due to disciplinary action, layoff, or other separation in accordance with the applicable collective bargaining agreement, civil service law, or other applicable law;

c. A properly completed application for longevity retirement benefits to be calculated pursuant to section 8 or section 10 as of the DROP benefit calculation date; and

d. Any other information required by the board of trustees.

4. A member may only make one DROP election during the member's lifetime.

B. Status. For pension purposes only:

1. During the DROP calculation period, there shall be no pension contribution deductions made from the earnings, wages, salary, or compensation earned by the DROP participant.

2. Upon entry into the DROP, a DROP participant shall no longer be entitled to disability retirement benefits pursuant to section 11.

3. Death benefits under the DROP. Upon the death of a DROP participant, the named beneficiary or beneficiaries shall be entitled to receive the benefits accumulated during the DROP calculation period as of the date of death. After the death of such DROP participant, death benefits shall be paid as required by section 12. Eligibility to participate in the DROP terminates upon the death of such DROP participant.

4. A DROP participant shall not be eligible to be elected as a member of the board of trustees during such participant's DROP calculation period.

C. Benefits under the DROP.

1. Effective with the DROP benefit calculation date, a DROP participant's monthly pension installments calculated pursuant to section 8 or

section 10, including continuous service, such participant's average monthly salary and the effective date of retirement shall be fixed.

2. The DROP accumulation shall be calculated as follows:

a. The amount of the monthly installments to which the member would have been entitled to receive from the DROP benefit calculation date to the end of the member's DROP calculation period.

b. The amount of any cost-of-living adjustments pursuant to section 13 during the DROP benefit calculation period.

c. Interest accumulation as set forth in this section.

3. At the conclusion of the member's DROP benefit calculation period, the board of trustees shall distribute the member's benefits, subject to the following provisions:

a. The board of trustees shall receive verification by the city that such DROP participant's employment as an employee of the city has terminated.

b. A terminated DROP participant or, if deceased, such participant's named beneficiary or beneficiaries, shall elect on forms provided by the board of trustees to receive the DROP benefits in accordance with one of the options provided in subparagraph E.1. Once a DROP participant commences distribution under a payment method, or receives a lump sum, no further interest shall be payable to the DROP participant. For a DROP participant or beneficiary who fails to elect a method of payment within 60 days of termination of DROP participation, the board of trustees will pay a lump sum as provided hereafter.

D. Interest and administrative costs. Interest shall accumulate annually at a rate reflecting the fund's net investment performance, whether positive or negative, during the DROP calculation period, less the cost of administering the DROP, all of which shall be determined by the board of trustees.

E. Payment.

1. Upon termination of employment with the city, the accumulated DROP benefits at the option of the terminated DROP participant, or if deceased, such participant's designated beneficiary or beneficiaries, shall be distributed to the extent allowed by law by rollover to another qualified plan, as a lump sum payment, as a combination of both, or in such other forms as provided by rules and regulations adopted by the board of trustees, provided that such distribution may be adjusted by the board of trustees to maintain Internal Revenue Code qualification of the plan.

2. If a DROP participant dies during the DROP calculation period, or on or before the DROP participant's full DROP accumulation is distributed, any remaining DROP accumulation shall be distributed to the DROP participant's designated beneficiary or beneficiaries, or, if there is no surviving designated beneficiary, to the participant's spouse, or if there is no surviving designated beneficiary and no surviving spouse, to the participants estate.

Any such payment shall be made in a lump sum payment, unless the participant had already commenced benefit payment of their DROP accumulation in an optional plan. In such an event, benefits shall continue to be paid pursuant to the optional benefit form selected.

3. The form of distribution elected by a DROP participant or surviving beneficiary must comply with the applicable requirements of the Internal Revenue Code and the regulations adopted thereunder.

4. A DROP participant who is involuntarily discharged who seeks review of such discharge shall not be entitled to receipt of pension benefits or benefits accumulation while in the DROP until it has been determined that the discharge was lawful, or at the expiration of DROP participation provided in subparagraph (A)1., whichever is first.

5. The accumulated benefits of any DROP participant, including any interest thereon, shall not be subject to assignment, garnishment, execution, attachment, or to any legal process whatsoever, except income deduction orders as provided in s. 61.1301, Florida Statutes, and federal income tax levies.

6. Upon termination from employment with the city the monthly pension installments pursuant to section 8 or section 10 and the cost-of-living adjustments pursuant to section 13, shall be paid to the member, and upon death of the member, monthly pension installments shall be paid pursuant to section 12 with cost-of-living adjustments pursuant to section 13.

F. Conflict of laws. To the extent that any provision of this section is in conflict with ss. 112.60-112.67, Florida Statutes, that apply to local law plans established by municipal ordinance or special act, or provisions of Florida Statutes made applicable to pension funds established by special act, or to the extent that any provision of this section would result in the loss of tax exempt status of the plan, the board of trustees is hereby delegated the authority to adopt by rule changes to this section in order to comply with said laws, which shall have the force of law and shall be considered part of this act.

G. Administration of program. The board of trustees shall make such rules as are necessary for the effective and efficient administration of this section, provided that such rules are not inconsistent with the provisions of this act. The board of trustees shall not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice. Notwithstanding any other provision of this section to the contrary, each provision of this section shall be construed and administered in such manner that the plan and such program shall qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United States and the regulations adopted thereunder, and the board of trustees may adopt any rule necessary to accomplish the purpose of this section as is necessary to retain tax qualification, which rule shall have the force of law and shall be considered part of this act.

Section 9. This act shall take effect upon becoming a law.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.