

House Bill No. 1471

An act relating to the City of West Palm Beach, Palm Beach County; amending chapter 24981, Laws of Florida, 1947, as amended, relating to the West Palm Beach Firefighters Pension Fund; revising definitions; revising provisions relating to service pensions, supplemental pension distribution, DROP, and lump sum payments of small retirement income; providing for rollovers from qualified plans; providing for actuarial assumptions; providing an effective date.

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

Section 1. Subparagraph 1. of paragraph (a) of subsection (1) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-374, Laws of Florida, is amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(1) Creation of Fund.—There is hereby created a special fund for the Fire Department of the City of West Palm Beach to be known as the West Palm Beach Firefighters Pension Fund. All assets of every description held in the name of the West Palm Beach Firemen's Relief and Pension Fund and in the name of the West Palm Beach Firefighters Pension Fund have been and shall continue to be combined.

(a) Definitions.—The following words or phrases, as used in this act, shall have the following meanings, unless a different meaning is clearly indicated by the context:

1. "Actuarial equivalent value," "actuarial equivalence," or "single sum value" means the stated determination using an interest rate of 8.25 7 percent per year and the 1983 1971 Group Annuity Mortality Table for males.

Section 2. Subparagraph 17. of paragraph (a) of subsection (1) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 96-527, Laws of Florida, is amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(1) Creation of Fund.—There is hereby created a special fund for the Fire Department of the City of West Palm Beach to be known as the West Palm Beach Firefighters Pension Fund. All assets of every description held in the name of the West Palm Beach Firemen's Relief and Pension Fund and in the name of the West Palm Beach Firefighters Pension Fund have been and shall continue to be combined.

(a) Definitions.—The following words or phrases, as used in this act, shall have the following meanings, unless a different meaning is clearly indicated by the context:

17. "Service," "credited service," or "service credit" means the total number of years, and fractional parts of years, of employment of any member in the employ of the Department, omitting intervening years and fractional parts of years of service when the member was not employed by the City. However, no member will receive credit for years or fractional parts of years of service for which the member has withdrawn his or her contributions to the Fund, unless the member repays into the Fund the contributions withdrawn, with interest, within ~~60 months~~ 90 days after reemployment. Further, a member may voluntarily leave his or her contributions in the Fund for a period of 5 years after leaving the employ of the Department, pending the possibility of his or her being rehired by the Department and remaining employed for a period of not less than 3 years, without losing credit for the time he or she has participated actively as a firefighter. If he or she does not remain employed for a period of at least 3 years as a firefighter with the Department upon reemployment, within 5 years his or her contributions shall be returned without interest in accordance with paragraph (5)(i). In determining the aggregate number of years of service of any member, the time spent in the military service of the United States or United States Merchant Marine by the member on leave of absence for such reason shall be added to the years of service provided such time shall not exceed 5 years. Further, to receive credit for such service:

a. The member must return to employment as a firefighter of the City within 1 year from the date of release from such active service; and

b. The member must contribute into the Fund the same sum which he or she would have contributed if he or she had remained a member. Any payment to the plan described in this paragraph shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the member's service in the military, not to exceed 5 years.

Section 3. Paragraph (h) of subsection (1) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-374, Laws of Florida, is amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(1) Creation of Fund.—There is hereby created a special fund for the Fire Department of the City of West Palm Beach to be known as the West Palm Beach Firefighters Pension Fund. All assets of every description held in the name of the West Palm Beach Firemen's Relief and Pension Fund and in the name of the West Palm Beach Firefighters Pension Fund have been and shall continue to be combined.

(h) Membership.—All firefighters and all who hold a position of firefighter in the employ of the Department shall be members in the Fund. All firefighters, including the chief, who were in the employ of the Department as of April 30, 1959, shall be given credit for service rendered in the employ of the Department prior to May 1, 1959. New members to the fund are required to undergo a physical examination for purposes of determining preexisting conditions. This physical examination shall be conducted in conjunction with the City's postoffer, preemployment physical examination.

The Board's Medical Director will review the results of this physical examination and provide notice to the Board and the member of any abnormal findings of the examination. This physical examination will be used for purposes of establishing a physical profile of the member for determining preexisting conditions and presumptive illnesses as provided for in subsection (6). After review, if further physical examination is required, such examination will be conducted at Board expense.

Section 4. Paragraph (b) of subsection (4) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 96-527, Laws of Florida, is amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(4) Custodian of funds.—All moneys and securities of the Fund may be deposited with the cash management coordinator of the City, acting in a ministerial capacity only, who shall be bonded and shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the City. However, any funds and securities so deposited with the cash management coordinator shall be kept in a separate fund by the cash management coordinator or clearly identified as funds and securities of the Fund. In lieu thereof, the Board shall deposit the funds and securities in a qualified public depository designated by the Board. The cash management coordinator or other depository shall receive all moneys due said Fund from all sources whatsoever. All tax revenue received pursuant to the provisions of chapter 175, Florida Statutes, shall be deposited into the Fund no more than 5 days after receipt. Member contributions withheld by the City on behalf of a member shall be deposited into the Fund at least monthly.

(b) Investment of moneys.—The Board shall have the power and authority to invest and reinvest the moneys of the Fund, and to hold, purchase, sell, assign, transfer, and dispose of any securities and investments held in said Fund. The aim of the investment policies shall be to preserve the integrity and security of Fund principal, to maintain a balanced investment portfolio, to maintain and enhance the value of Fund principal, and to secure the maximum total return on investments that is consonant with safety of principal, provided that such investments and reinvestments shall be limited to the following:

1. Direct obligations of the United States Government or any agency thereof, and debentures and other evidences of indebtedness which are fully guaranteed by the United States Government or any agency thereof for the payment of principal and interest.

2. Direct obligations of the State of Florida.

3. In debt securities, preferred and common stocks and mutual fund shares subject to the limitations set forth in this section.

4. In time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, a savings and loan association ~~associations~~ to

the extent that deposits are guaranteed by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation, or a state or federally chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund United States Government or any agency thereof.

5. Of the total fund principal in any pension or retirement system, including the amounts deposited in banks or associations, the total thereof invested in preferred stocks shall not aggregate more than 5 percent, and the total amount thereof invested in common stocks and mutual fund shares shall not aggregate more than 70 percent. Percentages shall be based on market value at the end of each reporting period (September 30).

6. The following minimum standards shall govern the eligibility of securities for purchase as investments, ~~except that 30 percent of the stocks at cost value shall not be subject to the standards contained in paragraph b and c:~~

a. All corporate and association securities and mutual fund shares shall be issued by a corporation or other legal person incorporated or otherwise organized within the United States and domiciled therein to the extent required by s.175.071(1)(b), Florida Statutes.

b. Not more than 10 percent of the total fund principal at market value shall be invested in any issuing company other than obligations of the United States or an agency thereof.

c. All bonds, stocks, or other evidence of indebtedness issued or guaranteed by a corporation shall be listed on any one or more of the recognized national stock exchanges and, in the case of bonds only, shall hold a rating in one of the ~~four~~ three highest classifications by a major rating service. Said bonds and preferred stocks that are convertible into common stocks shall be considered common stocks and the purchase of same shall be limited by the provisions of subparagraph 5.

d. The Board shall be required to engage the services of professional investment counsel to assist and advise the trustees in the performance of their duties.

e. At least once every 3 years, the Board shall retain an independent consultant professionally qualified to evaluate the performance of its professional money manager or investment counsel. The independent consultant shall make recommendations to the Board regarding the selection of money managers for the next investment term. These recommendations shall be considered by the Board at its next regularly scheduled meeting.

Section 5. Paragraph (a) of subsection (5) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-374, Laws of Florida, is amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(5) Service pension.—

(a) Normal retirement.—

1. Any member whose entry or reentry in the employment of the Department occurs after April 30, 1959, who has attained age 50 years, and who has acquired 15 or more years of service credit shall, upon application filed with the Board, be retired and shall be entitled to a monthly pension for the remainder of his or her life equal to the greater of the following, as applicable:

a. For a member who is actively employed by the department on or after October 1, 1998, or who is part of the DROP on or after October 1, 1998, 3 percent of his or her final average salary multiplied by the number of years, and fraction of a year, of service credit earned from and after October 1, 1982, plus 2½ percent of his or her final average salary multiplied by the number of years, and fraction of a year, of service credit earned prior to October 1, 1982, provided that in no case shall the total monthly pension payable to any such member exceed 78 percent of his or her final average salary;

b.a. For members who terminated employment, retired, or entered the DROP prior to October 1, 1998, except as provided in sub-subparagraph a., 2½ Two and one-half percent of his or her final average salary multiplied by the number of years, and fraction of a year, of service credit, provided that in no case shall the total monthly pension payable to any member exceed 65 percent of his or her final average salary; or

c.b. The sum of the following:

(I) Two and one-half percent of final average salary multiplied by the number of years, and fraction of a year, of service credit to a maximum of 26 years of service, and 2 percent of his or her final average salary multiplied by the number of years, and fraction of a year, in excess of 26 years of service, for all years of service earned through September 30, 1988; and

(II) Two percent of final average salary multiplied by the number of years, and fraction of a year, of service credit earned on and after October 1, 1988.

2. Any member whose entry or reentry in the employment of the Department occurs after April 30, 1959, and prior to July 1, 1977, may elect upon his or her retirement to receive a pension under the provisions of this subparagraph in lieu of subparagraph 1., as follows: Any member who has attained age 55 years and who has acquired 20 or more years of service credit shall, upon his or her application filed with the Board, be retired and, when so retired, shall be entitled to a monthly pension for the remainder of his or her life equal to the greater of the following:

a. Two percent of final average salary multiplied by the number of years, and fraction of a year, of service credit not to exceed 25 years, provided that in no case shall the total monthly pension payable to any member exceed 65 percent of his or her final average salary; or

b. The sum of the following:

(I) Two and one-half percent of final average salary multiplied by the number of years, and fraction of a year, of service credit to a maximum of 26 years of service, and 2 percent of final average salary multiplied by the number of years and fraction of a year in excess of 26 years of service, for all years of service earned through September 30, 1988; and

(II) Two percent of final average salary multiplied by the number of years, and fraction of a year, of service credit earned on and after October 1, 1988.

The 3-percent benefit accrual factor in sub-subparagraph 1.a. is contingent on and subject to the adoption and maintenance of the assumptions set forth in subsection (23). If such assumptions are modified by legislative, judicial, or administrative agency action, and the modification results in increased City contributions to the Pension Fund, the 3-percent benefit accrual factor in sub-subparagraph 1.a. shall be automatically decreased prospectively, from the date of the action, to completely offset the increase in City contributions. However, in no event shall the benefit accrual factor in sub-subparagraph 1.a. be adjusted below 2½ percent. To the extent that the benefit accrual factor is less than 3 percent, the supplemental pension distribution calculation under paragraph (d) shall be adjusted for employees who retire on or after October 1, 1998, and those employees who were members of the DROP on October 1, 1998. The adjustment shall be to decrease the minimum return of 8.25 percent needed to afford the supplemental pension distribution, when the amount of the reduction is zero if an employee has been credited with 16 or more years with the 3-percent benefit accrual factor or 1.25 percent if an employee has been credited with no more than a 2½ percent benefit accrual factor. If an employee has been credited with less than 16 years at the 3-percent benefit accrual factor, then the accumulated amount over 2½ percent for each year of service divided by .5 percent divided by 16 subtracted from 1 multiplied by 1.25 percent is the reduction from 8.25 percent. An example of the calculation of the minimum return for the supplemental pension distribution as described above is set forth in Appendix B to the collective bargaining agreement between the City of West Palm Beach and the West Palm Beach Association of Firefighters, Local 727-IAFF, October 1, 1998 - September 30, 2001.

Section 6. Subparagraph 1. of paragraph (d) of subsection (5) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 96-527, Laws of Florida, is amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(5) Service pension.—

(d) Supplemental pension distribution.—

1.a. The actuary for the Pension Fund shall determine the rate of investment return earned on Pension Fund assets during the 12-month period ending each September 30th. The rate determined shall be the rate reported in the most recent actuarial report submitted pursuant to part VII of chapter 112, Florida Statutes.

b. The actuary for the Pension Fund shall determine the actuarial present value, as of each September 30th, of future pension payments to eligible persons, as described in subparagraph 3., who are then being paid a pension. The actuarial present values shall be calculated using an interest rate of 7 percent per year compounded yearly and a mortality table as approved by the Board of Trustees and as used in the most recent actuarial report submitted pursuant to part VII of chapter 112, Florida Statutes.

c. A distribution amount shall be determined as of each September 30th. For distributions made after October 1, 1998, there shall be two different calculations to determine the distribution amount. For those employees who retire on and after October 1, 1998, or who are part of the DROP on or after October 1, 1998, the distribution amount shall be equal to factor (i) for each applicable member multiplied by the sum of factor (ii) and the positive difference, if any, between factor (iii) and 8.25 percent. For those employees who have retired before October 1, 1998, except as provided in this subparagraph, the distribution amount shall be equal to factor (i) for each applicable member multiplied by the sum of factor (ii) and the positive difference, if any, between factor (iii) and 7 percent. For purposes of both calculations, factor (i) is the actuarial present value determined in sub-subparagraph 1.b. for the respective group. Factor (ii) is one-half of the investment return rate in sub-subparagraph 1.a. in excess of 9 percent. Factor (iii) is the rate of investment return in sub-subparagraph 1.a., not to exceed 9 percent. The distribution amount shall not exceed accumulated net actuarial experience from all pension liabilities and assets. If the net actuarial experience is favorable, cumulatively, commencing with the experience for the year ended September 30, 1985, after offset for all prior supplemental distributions, the supplemental distribution may be made. If the net actuarial experience is unfavorable, cumulatively, commencing with the experience for the year ended September 30, 1985, after offset for all prior supplemental distributions, no supplemental distribution may be made, and the city must amortize the loss until it is offset by cumulative favorable experience.

If an actuarial report submitted as provided in this paragraph is not state accepted prior to distribution, and if a deficiency to the Pension Fund results, the deficiency shall be made up from the next available supplemental pension distribution, unless sooner made up by agreement between the Board of Trustees and the city. No such deficiency shall be permitted to continue for a period greater than 3 years from the date of payment of the supplemental pension distribution which resulted in the deficiency.

Section 7. Subparagraph 5. of paragraph (d) of subsection (5) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-374, Laws of Florida, is amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(5) Service pension.—

(d) Supplemental pension distribution.—

5. Each supplemental pension distribution amount shall be allocated among the eligible persons in the proportion that an eligible person's supplemental pension distribution points bears to the aggregate amount of supplemental pension distribution points of all eligible persons. An eligible person shall be credited with supplemental pension distribution points as follows:

a. Three and eighty-five hundredths of a point multiplied by the service credit of the member at time of retirement or prior to death, however, in the computation of the supplemental pension distribution due the in-line-of-duty pensioner the maximum service credit of 26 years shall be used.

b. Maximum service credit shall be 26 years.

c. Allocations for surviving spouses and surviving dependent children who are eligible to receive supplemental pension distributions shall be 75 percent of the years of service earned by the pensioner. Allocations for duty death beneficiaries (surviving spouse and surviving children) shall be based upon 75 percent of 26 years of service.

Section 8. Subparagraphs 1. and 4. of paragraph (k) of subsection (5) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 97-327, Laws of Florida, are amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(5) Service pension.—

(k) Deferred Retirement Option Plan (DROP).—

1. Eligibility to participate in the DROP.—

a. Any member who is eligible to receive an early or normal retirement pension may participate in the DROP. Members shall elect to participate by applying to the Board of Trustees on a form provided for that purpose.

b. Election to participate shall be forfeited if not exercised within the first ~~35~~ 33 years of combined credited service. ~~However, participation in the first years of enactment will be extended to those members with 34 years of service in 1997.~~

c. A member shall not participate in the DROP beyond the time of attaining ~~37~~ 35 years of service and the total years of participation in the DROP shall not exceed ~~5~~ 3 years. For example:

(I) Members with 32 years of credited service at time of entry shall only participate for ~~5~~ 3 years.

(II) Members with 33 years of credited service at time of entry shall only participate for ~~4~~ 2 years.

(III) Members with 34 years of credited service at the time of entry shall only participate for 3 years.

(IV) Members with 35 years of credited service at the time of entry shall only participate for 2 years.

d. Upon a member's election to participate in the DROP, he or she shall cease to be a member and shall no longer accrue any benefits under the pension fund. For all fund purposes, the member becomes a retirant. The amount of credited service and final average salary shall freeze as of the date of entry into the DROP.

4. After-tax contributions to the DROP.—

a. A member may make after-tax contributions to the DROP ~~in the first calendar year only~~. The maximum amount which may be contributed is the lesser of:

(I) The IRS Section 415(c) limit.

(II) The amount allowable under IRC Section 401(m).

b. After-tax contributions to the DROP will earn interest in the same manner as set forth in sub-subparagraph 2.b.

c. Distributions to members or their beneficiaries of after-tax contributions may be withdrawn at any time on or after termination of employment. However, payments must be made at least as rapidly as required under subsection (19).

d. Loans shall not be made against after-tax contributions.

Section 9. Subsection (16) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-374, Laws of Florida, is amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(16) Lump Sum Payment of Small Retirement Income.—Notwithstanding any provision of the Fund to the contrary, if the monthly retirement income payable to any person entitled to benefits hereunder is less than \$30 or if the single sum value of the accrued retirement income is less than ~~\$5,000~~ ~~\$3,500~~ as of the date of retirement or termination of service, whichever is applicable, the Board of Trustees, in the exercise of its discretion, may specify that the actuarial equivalent of such retirement income be paid in lump sum.

Section 10. Subsections (22) and (23) are added to section 17 of chapter 24981, Laws of Florida, as amended by chapter 95-478, Laws of Florida, to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(22) Rollovers from qualified plans.—A member may roll over all or part of his or her assets in another qualified plan to his or her chapter 175 share account provided all of the following requirements are met:

(a) Some or all of the amount distributed from the other plan is rolled over to this plan no later than the 60th day after distribution was made from the plan or, if distributions are made in installments, no later than the 60th day after the last distribution was made.

(b) The amount rolled over to the share account does not include any amounts contributed by the member to the plan on a posttax basis.

(c) The rollover is made in cash.

(d) The member certifies that the distribution is eligible for a rollover.

(e) Amounts which the trustee accepts as a rollover to this fund shall, along with any earnings allocated to the trustee, be fully vested at all times.

The rollover may also be made to this plan from an individual retirement account qualified under Code Section 408 when the individual retirement account was merely used as a conduit for funds from another qualified plan and the rollover is made in accordance with the rules provided in paragraphs (a) through (e). Amounts rolled over may be segregated from other fund assets. The trustee shall separately account for gains, losses, and administrative expenses on these rollovers as provided for in paragraphs (5)(d) and (j). In addition, the fund may accept the direct transfer of a member's benefits from another qualified retirement plan. The fund shall account for direct transfers in the same manner as a rollover and shall obtain certification from the member that the amounts are eligible for a rollover or direct transfer to this fund.

(23) Actuarial assumptions.—The following actuarial assumptions shall be used for all purposes in connection with this fund, effective October 1, 1998:

(a) The period for amortizing current, future, and past actuarial gains or losses shall be 20 years.

(b) The assumed investment rate of return shall be 8.25 percent.

Section 11. This act shall take effect October 1, 1999.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.