

House Bill No. 1089

An act relating to the City of West Palm Beach, Palm Beach County; revising language with respect to the West Palm Beach Firefighters Pension Fund; revising the provisions regarding optional forms of retirement income; revising the beneficiary provisions; revising the deferred retirement option plan provisions; revising the disability provisions; adding a new section regarding penalties for false or misleading statements to obtain benefits; providing an effective date.

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

Section 1. Subparagraph 1.a. of paragraph (g) and paragraphs (h) and (i) of subsection (5) of section 17 of chapter 24981, Laws of Florida, 1947, as amended, are amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(5) Service pension.—

(g) Optional forms of retirement income.—

1.a. In the event of normal, ~~or early, or disability~~ retirement, in lieu of the normal form of retirement income payable as specified in paragraph (a), paragraph (b), ~~or paragraph (c), or subsection (6)~~, and in lieu of the beneficiary benefits as specified in subsection (7), a member, upon written request to the board and ~~submission of evidence of good health (except that such evidence will not be required if such request is made at least 3 years prior to the date of commencement of retirement income)~~, and subject to the approval of the board, may elect to receive a retirement income of equivalent actuarial value payable in accordance with one of the following options:

(I) Lifetime option.—A retirement income of a larger monthly amount, payable to the member for his or her lifetime only.

(II) Joint and survivor option.—A retirement income of a modified monthly amount, payable to the member during the joint lifetime of the member and a dependent joint pensioner designated by the member, and following the death of either of them, 100 percent, ~~75 percent~~, 66²/₃ percent, or 50 percent of such monthly amounts, payable to the survivor for the lifetime of the survivor.

(h) Designation of beneficiary.—

1. Each member may, on a form provided for that purpose, signed and filed with the board, designate a beneficiary or beneficiaries to receive the benefit, if any, which may be payable in the event of the member's death; and each designation may be revoked by such member by signing and filing with the board a new designation-of-beneficiary form. However, after the benefits have commenced, a retirant may change his or her designation of

joint annuitant or beneficiary only twice. If the said ~~retirant~~ desires to change his or her joint annuitant or beneficiary, the retirant ~~he~~ shall file with the board a notarized notice of such change either by registered letter or on a form as provided by the board. Upon receipt of a completed change of joint annuitant form or such other notice, the board shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit.

2. Absence or death of beneficiary.—If a deceased member fails to name a beneficiary in the manner prescribed in subparagraph 1., or if the beneficiary or beneficiaries named by a deceased member predecease the member, the beneficiary benefits, if any, which may be payable with respect to such deceased member may be paid, in the discretion of the board, ~~either~~ to:

- a. The spouse or dependent child or children of the member; ~~or~~
- b. The dependent living parent or parents of the member; or
- c. The estate of the member.

(i) Refund of contributions.—In the event a member leaves the employ of the department or dies with less than 10 years of credited service, and no service pension, disability pension, or beneficiary benefit is payable, the contributions made by him or her to the fund shall be refunded, without interest (less any disability payments paid to the member), to the member, or, in the event of death, to the beneficiary or to the member's estate.

Section 2. Effective for share account distributions made for calendar year 1998 from chapter moneys received in July 1999, subparagraph 1. of paragraph (k) of subsection (5) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 99-456, Laws of Florida, is 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 years of combined credited service.

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

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

(II) Members with 33 years of credited service at the time of entry shall only participate for 4 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, except for the benefits provided under paragraph (j) of this subsection, Chapter 175 share accounts. For all fund purposes, the member becomes a retirant, except that a DROP participant shall continue to receive shares of the chapter moneys in accordance with paragraph (j), Chapter 175 share accounts. The amount of credited service and final average salary shall freeze as of the date of entry into the DROP.

Section 3. Paragraphs (b) and (g) of subsection (6) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-374, Laws of Florida, are amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(6) Disability pensions, medical examinations, return to work, etc.—

(b) Nonduty disability pension benefits.—Upon retirement on account of disability as provided in paragraph (a), a member shall receive a disability pension computed according to subparagraph (5)(a)1., notwithstanding that he or she might not have attained age 50 years and might not have 15 or more years of service credit; provided, further, if the member has at least 10 years of service credit, the disability pension shall not be less than 25 percent of the member's average monthly salary at the time of disability. A disability retiree may select optional forms of benefits in accordance with paragraph (5)(g).

(g) Payment of disability pensions.—Monthly disability retirement benefits shall be payable as of the date the board determines that the member was entitled to a disability pension; however, the first payment shall actually be paid on the first day of the first month after the board determines such entitlement. Any portion due for a partial month shall be paid together with the first payment. If the member recovers from the disability prior to his or her normal retirement date, the last payment shall be the payment due next preceding the date of such recovery, or, if the member dies without recovering from his or her disability, then the following shall apply:

1. Married member.—Beneficiary benefits as set forth in subsection (7) shall be paid if, at the time of death, the member was married or had a dependent child or children or parent or parents; or

2. Nonmarried member with 10 years of service or more.—Payments shall be made until his or her death or the 120th monthly payment, whichever is later; or

3. Nonmarried ~~Non-married~~ member with less than 10 years of service.—Payments shall be made until the member's ~~his~~ death.

Any monthly retirement income payments due after the death of a disabled member shall be paid to the member's designated beneficiary or beneficiaries or the member's estate as provided in paragraph (5)(h) or subsection (7), as applicable.

Section 4. Paragraph (h) of subsection (6) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-374, Laws of Florida, is repealed.

Section 5. Subsection (7) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapters 93-374 and 96-527, Laws of Florida, is amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(7) Beneficiary benefits.—

(a) Death while in service; 5 years or more (nonduty).—In the event a member with 5 or more years of service credit dies while in the employ of the department, and the board finds his or her death to have occurred as the result of causes arising outside the performance of his or her duties as a firefighter in the employ of the city, the following applicable pensions shall be paid:

1. Surviving spouse's benefits.—The surviving spouse shall receive a pension equal to two-thirds of the pension the member would otherwise have been entitled to receive under paragraph (5)(a), as if the member had retired the day preceding the date of his or her death, notwithstanding that the member might not have met the age and service requirements for retirement as specified in subsection (5). Upon the surviving spouse's ~~remarriage~~ ~~or~~ death, the pension shall terminate.

2. Benefits for children surviving surviving spouse, etc.—In the event the a deceased member does not leave a surviving spouse, or if the surviving spouse shall ~~remarry~~ ~~or~~ die, and the member leaves an unmarried child or children under age 18, each such child shall receive a pension of an equal share of the pension to which said member's surviving spouse was or would have been entitled. Upon any such child's adoption, marriage, death, or attainment of age 18, the child's ~~his~~ pension shall terminate and said child's pension shall be apportioned to the said deceased member's remaining eligible children under age 18.

3. Benefits for dependent parents.—In the event a member dies and does not leave a surviving spouse or children eligible to receive a pension provided for in subparagraphs 1. and 2., and the member leaves a parent or parents whom the board finds to have been dependent upon the member for 50 percent or more of their financial support, each such parent shall receive a pension of an equal share of the pension to which the member's surviving spouse would have been entitled ~~if the member left a surviving spouse~~. Upon

any such parent's remarriage or death, the parent's his pension shall terminate.

4. Estate.—In the event a member dies and does not leave a surviving spouse, children, or parents eligible to receive a pension provided for in subparagraph 1., subparagraph 2., or subparagraph 3., then the benefits remaining, if any, shall be paid to the member's estate.

(b) Death in the line of duty.—In the event a member dies while in the employ of the department, and the board finds his or her death to be the natural and proximate result of causes arising out of and in the ~~course of his or her~~ actual performance of duty as a firefighter in the employ of the city, the following applicable pensions shall be paid:

1. Surviving spouse's benefits.—The surviving spouse shall receive a monthly pension equal to three-fourths of the duty disability pension the member would otherwise have been entitled to receive at the time of his or her death. Upon the surviving spouse's death, the pension shall terminate.

2. Benefits for children surviving surviving spouse, etc.—In the event ~~the~~ a deceased member does not leave a surviving spouse, or if the surviving spouse shall die, and the member leaves an unmarried child or children under age 18, each such child shall receive a pension of an equal share of the pension to which the member's surviving spouse was or would have been entitled. Upon any such child's adoption, marriage, death, or attainment of age 18, the child's ~~his or her~~ pension shall terminate and said child's pension shall be apportioned to the deceased member's remaining eligible children under age 18.

3. Benefits for dependent parents.—In the event a member dies and does not leave a surviving spouse or children eligible to receive a pension provided for in subparagraphs 1. and 2., and the member leaves a parent or parents whom the board finds to have been dependent upon the member for 50 percent or more of their financial support, each such parent shall receive a pension of an equal share of the pension to which said member's surviving spouse would have been entitled ~~if the member left a surviving spouse~~. Upon any such parent's remarriage or death, the parent's ~~his or her~~ pension shall terminate.

4. Estate.—In the event a member dies and does not leave a surviving spouse, children or parents eligible to receive a pension provided for in subparagraph 1., subparagraph 2., or subparagraph 3., then the benefits remaining, if any, shall be paid to the member's estate.

(c) Death after retirement.—Upon the death of a retirant, the following applicable pensions shall be paid:

1. Surviving spouse's benefits.—The surviving spouse shall receive a pension equal to three-fourths of the ~~retirant's member's~~ pension at the time of his or her death. Upon the surviving spouse's ~~remarriage or~~ death, the pension shall terminate.

2. Benefits for children, surviving surviving spouse, etc.—In the event a deceased member does not leave a surviving spouse, or if the surviving

spouse shall ~~remarry or die~~, and the member leaves an unmarried child or children under age 18, each such child shall receive a pension of an equal share of the pension to which the member's surviving spouse was or would have been entitled. Upon any such child's adoption, marriage, death, or attainment of age 18, the child's his pension shall terminate and said child's pension shall be apportioned to the deceased member's remaining eligible children under age 18.

3. Benefits for dependent parents.—In the event a member dies and does not leave a surviving spouse or children eligible to receive a pension provided for in subparagraphs 1. and 2., and the member leaves a parent or parents whom the board finds to have been dependent upon the member for 50 percent or more of their financial support, each such parent shall receive a pension of an equal share of the pension to which the member's surviving spouse would have been entitled ~~if the member left a surviving spouse~~. Upon any such parent's remarriage or death, the parent's his or her pension shall terminate.

4. Estate.—In the event a member dies and does not leave a surviving spouse, children, or parents eligible to receive a pension provided for in subparagraph 1., subparagraph 2., or subparagraph 3., then the benefits remaining, if any, shall be paid to the member's estate.

Section 6. Paragraph (d) is added to subsection (20) of section 17 of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-374, Laws of Florida, to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(20) Miscellaneous requirements.—

(d) False or misleading statements made to obtain retirement benefits prohibited.—

1. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or to withhold or conceal material information to obtain any benefit under this plan.

2.a. A person who violates subparagraph 1. commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

b. In addition to any applicable criminal penalty, upon conviction for a violation of subparagraph 1., a participant or beneficiary of this plan may, in the discretion of the Board of Trustees, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under this plan. For purposes of this sub-subparagraph, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

Section 7. All special laws and parts of special laws, ordinances, or regulations, insofar as they are in conflict or inconsistent with the provisions of this act, are repealed.

Section 8. This act shall take effect upon becoming a law.

Approved by the Governor May 25, 2000.

Filed in Office Secretary of State May 25, 2000.