

House Bill No. 1091

An act relating to the City of West Palm Beach, Palm Beach County; amending chapter 24981, Laws of Florida, 1947, as amended; revising language with respect to the West Palm Beach Police Pension Fund; revising language relating to early retirement; revising the provisions regarding optional forms of retirement income; revising the beneficiary provisions; revising the disability provisions; providing for a definition of the actuarial equivalent value; providing for retirement pension calculations; providing for supplemental pension distributions; providing for actuarial assumptions; adding language imposing penalties for false or misleading statements to obtain benefits; providing for retroactive effect; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 16 of chapter 24981, Laws of Florida, 1947, as amended by chapters 93-373 and 99-483, Laws of Florida, is amended to read:

Section 16. West Palm Beach Police Pension Fund.—

(2) 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:

(a) “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 Group Annuity Mortality Table.

Section 2. Paragraph (c) of subsection (8) of section 16 of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-373, Laws of Florida, is amended to read:

Section 16. West Palm Beach Police Pension Fund.—

(8) Age and service requirements for retirement.—

(c) Early retirement.—Any member may retire from the service of the department, ~~with the consent of the city,~~ as of the first day of any calendar month which is prior to the member’s normal retirement date but subsequent to the date as of which he or she has both attained the age of 50 and completed 10 years of credited service. In the event of early retirement, the monthly amount of retirement income payable shall be computed as described in paragraph (9)(a), taking into account his or her credited service to his or her date of actual retirement and his or her final average salary as of such date. The amount of retirement income shall be actuarially reduced to take into account the member’s younger age and earlier commencement of retirement income benefits. In no event shall the early retirement reduction exceed 3 percent for each year by which the member’s age at retirement preceded the member’s normal retirement age.

Section 3. Paragraph (a), subparagraph 1.a. of paragraph (d), and paragraph (e) of subsection (9) of section 16 of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-373, Laws of Florida, are amended to read:

Section 16. West Palm Beach Police Pension Fund.—

(9) Retirement pension calculation.—

(a) Upon retirement eligibility as provided in subsection (8), a member shall receive a monthly pension. The pension shall be ~~equal to the greater of the following, as applicable:~~

1. A member who has more than or equal to twelve years and six months of service at October 1, 1999, and who was actively employed by the department on or after October 1, 1999, shall receive a benefit equal to the greater of the following:

a. Three percent (3%) of final average salary multiplied by the number of years, and fraction of a year, of credited service earned from April 1, 1987, plus two and one-half percent (2 ½%) of final average salary multiplied by the number of years, and fraction of a year, of credited service earned prior to April 1, 1987, up to a total of twenty-six (26) years, plus one percent (1%) of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of twenty-six (26) years; or

b. Two and one-half percent (2 ½%) of final average salary multiplied by the number of years, and fraction of a year, of credited service, not to exceed twenty-six (26) years, plus one percent (1%) of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of twenty-six years; or

c. The sum of the following:

(I) Two and one-half percent (2 ½%) of final average salary multiplied by the number of years, and fraction of a year, of credited service earned through September 30, 1988; and

(II) Two percent (2%) of final average salary multiplied by the number of years, and fraction of a year, of credited service earned on and after October 1, 1988.

However, in no event shall the benefit be less than 2% per year of credited service.

2. A member who has more than twelve years and six months of service and who entered the DROP on or before October 1, 1999, and who was actively employed by the department on October 1, 1999, shall receive a benefit equal to the greater of the following:

a. Three percent (3%) of final average salary multiplied by the number of years, and fraction of a year, of credited service earned in the twelve years and six months prior to entering the DROP, plus 2 ½% of final average salary multiplied by the number of years and fraction of a year of credited service

earned prior to that date which is twelve years and six months prior to entering the DROP, up to a total of twenty-six (26) years, plus one percent (1%) of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of twenty-six (26) years. The one-half percent (½%) enhancement to the accrual rate shall also be applied retroactively to the date of entering the DROP, or two years, whichever is less; provided that the retroactive application shall include principal only, not any earnings thereon. An example of the calculation described in this paragraph is set forth in the collective bargaining agreement between the City of West Palm Beach and the Police Benevolent Association, Certified Unit No. 825, October 1, 1998-September 30, 2001; or

b. Two and one-half percent (2 ½%) of final average salary multiplied by the number of years, and fraction of a year, of credited service, not to exceed twenty-six (26) years, plus one percent (1%) of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of twenty-six years; or

c. The sum of the following:

(I) Two and one-half percent (2 ½%) of final average salary multiplied by the number of years, and fraction of a year, of credited service earned through September 30, 1988; and

(II) Two percent (2%) of final average salary multiplied by the number of years, and fraction of a year, of credited service earned on and after October 1, 1988.

However, in no event shall the benefit be less than 2% per year of credited service.

3. A member who has less than twelve years and six months of service on October 1, 1999, and who was actively employed by the department on or after October 1, 1999, shall receive a benefit equal to the greater of the following:

a. Three percent (3%) of final average salary multiplied by the number of years, and fraction of a year, of credited service up to a total of twenty-six (26) years, plus one percent (1%) of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of twenty-six (26) years; or

b. Two and one-half percent (2 ½%) of final average salary multiplied by the number of years, and fraction of a year, of credited service, not to exceed twenty-six (26) years, plus one percent (1%) of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of twenty-six (26) years; or

c. The sum of the following:

(I) Two and one-half percent (2 ½%) of final average salary multiplied by the number of years, and fraction of a year, of credited service earned through September 30, 1988; and

(II) Two percent (2%) of final average salary multiplied by the number of years, and fraction of a year, of credited service earned on and after October 1, 1988.

However, in no event shall the benefit be less than 2% per year of credited service.

4. A member who terminated employment, retired on a vested deferred benefit, or retired on or before October 1, 1999, shall receive a benefit equal to the greater of the following:

a. Two and one-half percent (2 ½%) of final average salary multiplied by the number of years, and fraction of a year, of credited service, not to exceed twenty-six (26) years, plus one percent (1%) of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of twenty-six years; or

b. The sum of the following:

(I) Two and one-half percent (2 ½%) of final average salary multiplied by the number of years, and fraction of a year, of credited service earned through September 30, 1988; and

(II) Two percent (2%) of final average salary multiplied by the number of years, and fraction of a year, of credited service earned on and after October 1, 1988.

The three percent (3%) benefit accrual factor for active employees in subparagraphs (9)(a)1., 2., 3., and 4. is contingent on and subject to the adoption and maintenance of the assumptions set forth in subsection (34). 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 three percent (3%) benefit accrual factor for active employees in subparagraphs (9)(a)1., 2., and 3. shall be automatically decreased prospectively from the date of the action, to completely offset the increase in city contributions. Provided, however, in no event shall the benefit accrual factor in subparagraphs (9)(a)1., 2., 3., and 4. be adjusted below two and one half percent (2 ½%).

To the extent that the benefit accrual factor is less than three percent (3%) for active members with less than twelve years and six months of service on October 1, 1999, the supplemental pension distribution calculation under subparagraph (12)(a)2. shall be adjusted for employees who retire or enter the DROP after October 1, 1999. The adjustment shall be to decrease the minimum return of eight and one-quarter percent (8.25%) needed to afford the supplemental pension distribution, where the amount of the reduction is zero if an employee has been credited with twelve years and six months of service or more with the three percent (3%) benefit accrual factor or one and one-quarter percent (1.25%) if an employee has been credited with no more than a two and one-half percent (2.5%) benefit accrual factor. If an employee has been credited with less than twelve years and six months of

service at the three percent (3%) benefit accrual factor, then the accumulated amount over two and one-half percent (2.5%) for each year of service divided by one-half percent (0.5%) divided by twelve and one-half (12.5) subtracted from one multiplied by one and one-quarter percent (1.25%) is the reduction from eight and one-quarter percent (8.25%). An example of the calculation of the minimum return for the supplemental pension distribution as described in this paragraph is set forth in the collective bargaining agreement between the City of West Palm Beach and the Police Benevolent Association, Certified Unit No. 145 and Certified Unit No. 825, October 1, 1998-September 30, 2001.

~~1. Two and one-half percent of final average salary multiplied by the number of years, and fraction of a year, of credited service, not to exceed 26 years, plus 1 percent of final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of 26 years; or~~

2.—The sum of the following:

~~a.—Two and one-half percent of his or her final average salary multiplied by the number of years, and fraction of a year, of credited service earned through September 30, 1988; and~~

~~b.—Two percent of final average salary multiplied by the number of years, and fraction of a year, of credited service earned on and after October 1, 1988.~~

(d) 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 (c), and in lieu of the death benefits as specified in subsection (17), a member, upon written request to the board and submission of evidence of good health (except that such evidence shall 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, 66 $\frac{2}{3}$ percent, or 50 percent of such monthly amounts, payable to the survivor for the lifetime of the survivor.~~

(e) 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 a joint annuitant or beneficiary only twice. If the retirant desires to change his or her joint annuitant or beneficiary, he or she 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 failed to name a beneficiary in the manner prescribed in subparagraph 1., or if the beneficiary (or beneficiaries) named by a deceased member predeceases the member, death benefits, if any, which may be payable under this act on behalf of such deceased member may be paid, in the discretion of the board, to: in accordance with subsection (11)(g).

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

Section 4. Paragraphs (b) through (e) of subsection (12) of section 16 of chapter 24981, Laws of Florida, 1947, as amended by chapters 93-373 and 99-483, Laws of Florida, are redesignated as paragraphs (c) through (f), respectively, and paragraph (a) of said subsection is amended to read:

(12) Supplemental pension distribution.—

(a) The Board of Trustees shall annually authorize a supplemental pension distribution, the amount of which shall be determined as of each September 30, as applicable.

1. For employees who retired prior to October 1, 1999, the amount of the distribution shall be equal to the actuarial present value of future pension payments to current pensioners, multiplied by the positive difference, if any, between the rate of investment return (not to exceed nine percent (9%)) and seven percent (7%), plus one-half of any investment earnings over nine percent (9%).

2. For those employees who have more than twelve and one-half (12 ½) years of service on and after October 1, 1999, or who are part of the DROP on or after October 1, 1999, the amount of the distribution shall be equal to the actuarial present value of future pension payments to those pensioners multiplied by the positive difference, if any, between the rate of investment return (not to exceed nine percent (9%)) and seven percent (7%) plus one-half of any investment earnings over nine percent (9%).

3. For those employees who have less than twelve and one-half years of serve as of October 1, 1999, the amount of the distribution shall be equal to

~~the actuarial present value of future pension payments to those pensioners multiplied by the positive difference, if any, between the rate of investment return (not to exceed nine percent (9%)) and eight and one-quarter percent (8.25%), plus one-half of any investment earnings over nine percent (9%). The amount of the distribution shall be equal to the actuarial present value of future pension payments to current pensioners, multiplied by the positive difference, if any, between the rate of investment return (not to exceed 9 percent) and 7 percent plus one-half of any investment earnings over 9 percent.~~

(b) The actuary shall determine whether there may be a supplemental pension distribution based on the following factors:

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

2. The actuary for the pension fund shall, as of September 30, determine the actuarial present value of future pension payments to current pensioners. The actuarial present values shall be calculated using an interest rate of 7 percent a year compounded annually 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.

3. The supplemental pension 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, 1991, 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, 1991, 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 5. Effective for share account distributions made for calendar year 1998 from chapter moneys received in July 1999, paragraph (a) of subsection (13) of section 16 of chapter 24981, Laws of Florida, 1947, as amended by chapters 93-373 and 99-483, Laws of Florida, is amended to read:

Section 16. West Palm Beach Police Pension Fund.—

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

(a) Eligibility to participate in the DROP.—

1. Any member who is eligible to receive an early or normal retirement pension and who has either attained age 50, regardless of credited service, or completed between 25 and 30 years of credited service, may participate in the DROP. Members shall elect to participate by applying to the board of trustees on a form provided for that purpose.

2. Election to participate shall be forfeited if not exercised within the first 27 years of combined credited service. ~~However, participation in the first 27 years of enactment will be extended to those members with 28 years of service in 1992.~~

3. A member shall not participate in the DROP beyond the time of attaining 30 years of service and the total years of participation in the DROP shall not exceed 5 years. For example:

a. Members with 25 years of credited service at time of entry shall participate for only 5 years.

b. Members with 26 years of credited service at time of entry shall participate for only 4 years.

c. Members with 27 years of credited service at time of entry shall participate for only 3 years.

4. 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 subsection (11), Chapter 185 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 subsection (11), Chapter 185 share accounts. The amount of credited service and final average salary shall freeze as of the date of entry into the DROP.

5. Notwithstanding any provision of this section to the contrary, the police chief of the department may, at his or her option, extend his or her participation in the DROP beyond 5 years or 30 years of total service. For purposes of this subsection, "police chief" means a member who has been promoted from police officer through the ranks of the department to the position of police chief. Any such police chief shall not participate in the DROP beyond the attainment of 33 years of service, and the total years of participation in the DROP shall not exceed 8 years.

Section 6. Subparagraph 1. of paragraph (d) of subsection (16) of section 16 of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-373, Laws of Florida, is amended to read:

Section 16. West Palm Beach Police Pension Fund.—

(16) Conditions applicable to all disability retirants.—

(d) Normal form of disability retirement income.—

1. Duty or nonduty disability with 10 years of service.

a. Married member.—The standard form of disability retirement benefit for a married member or for a member with dependent children or parents shall be a disability pension and death benefit. This form of benefit shall provide monthly payments for the life of the member as set forth in subsection (14) or subsection (15), as applicable, or the disability retiree may select optional forms of benefits in accordance with paragraph (9)(d). Thereafter, death benefits shall be paid as provided in subsection (17).

b. Nonmarried member.—The standard form of disability retirement benefit for a member who is not married or who does not have dependent children or parents shall be a 10-year certain benefit. This benefit shall pay monthly benefits for the member's lifetime. In the event the member dies after his or her retirement but before he or she has received disability retirement benefits for a period of 10 years, the same monthly benefit shall be paid to the beneficiary (or beneficiaries) as designated by the member for the balance of such 10-year period. In the absence of a designated beneficiary, then the benefits will be paid to the estate of the retiree.

Section 7. Subparagraph 1. of paragraph (a) of subsection (19) of section 16 of chapter 24981, Florida Statutes, 1947, as amended by chapter 93-373, Laws of Florida, is amended to read:

(19) Member's contributions; refunds.—

(a) Member's contributions.—

1. The member shall contribute 7 ~~6.45~~ percent of his or her salary to the fund.

Section 8. Paragraph (d) is added to subsection (33) of section 16 of chapter 24981, Florida Statutes, 1947, as renumbered by chapters 95-478 and 99-483, Laws of Florida, to read:

Section 16. Palm Beach Pension Fund.—

(33) 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 described in 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 9. Subsection (34) is added to section 16 of chapter 24981, Laws of Florida, 1947, as amended by chapters 95-478 and 99-483, Laws of Florida, to read:

(34) Actuarial assumptions.—The following actuarial assumptions shall be used for all purposes in connection with this fund, effective October 1, 1999:

(a) The assumed investment rate of return shall be eight and one-quarter percent (8.25%); and

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

The consequences of the change in assumptions in paragraphs (a) and (b) shall first take effect during the October 1, 1999-September 30, 2000, fiscal year of the City of West Palm Beach. To the extent that effective dates or legislative delays might influence the direct application to the October 1, 1999-September 30, 2000, fiscal year of the actuarial cost estimate dated March 24, 2000, there shall be a minimum contribution reserve established by the pension fund for the City of West Palm Beach. The reserve will be credited with any amounts contributed to the pension fund by the City of West Palm Beach during the October 1, 1999-September 30, 2000, fiscal year in excess of \$1,462,965. This amount has been determined by combining the contribution requirement from the September 30, 1998, actuarial valuation report dated May 7, 1999, with the subsequent actuarial cost estimate dated March 24, 2000, both of which were prepared by the fund's actuary.

Section 10. 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 11. 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.