

House Bill No. 1665

An act relating to the City of Orlando, Orange County, revising language with respect to the pension fund of the fire department of the city; amending chapter 23444, Laws of Florida, 1945, as amended; providing that DROP participants shall not participate in the fund; amending the cost-of-living increase for members and beneficiaries, with the actuarial cost thereof being borne by the members; providing an effective date for all retirements; providing for a deferred retirement option plan as an improvement to present pension benefits with the additional cost thereof being borne by the members; providing for employer pick up of member contributions; providing for changes necessary to obtain tax qualification; providing an effective date.

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

Section 1. Section 2 of chapter 23444, Laws of Florida, 1945, as amended by chapter 73-573, Laws of Florida, is amended to read:

Section 2. Members of said Fire Department shall be construed as including all officers and ~~firefighters firemen and firewomen~~ regularly employed in said department, and whose employment shall be regular and continuous and not of a temporary character, provided, however, the secretaries, stenographers and switchboard operators shall not be covered by the provisions of this Act. For the purposes of this Act the term widow shall include widower; reference to the masculine pronoun shall include the feminine and vice-versa; the term "issue" shall include a member's natural and adopted children as well as those in gestation. Further provided that members who are DROP participants will no longer be participants in this fund, nor eligible for any benefits hereunder.

Section 2. Section 19 of chapter 23444, Laws of Florida, 1945, as created by chapter 88-518, Laws of Florida, is amended to read:

Section 19. Cost of Living Increase.

(1) After the effective date of this act, any member of the Orlando Fire Department who retires ~~prior to age 62~~ with 20 25 or more years of actual credited service shall receive a triennial cost-of-living increase of 5 percent ~~compound~~ starting 3 years after retirement, or, in the case of a DROP participant, 3 years after termination of employment, ~~and ending with the last triennial anniversary of retirement prior to age 65.~~ Any actuarially-determined additional cost resulting from this additional benefit shall be borne by the members of the firefighters pension plan. Members who terminate employment without being eligible for a cost-of-living increase under this section will not be entitled to any refund of the contribution they made to fund this benefit.

(2) ~~The benefit provided for in subsection (1), with the additional cost thereof being borne by the members, shall not become effective and shall be~~

~~of no force and effect unless and until approved by a majority of the members of the firefighters pension plan at an election conducted by the Orlando Firefighters Pension Board within 90 days after the effective date of this act.~~

Section 3. A new section 17 is added to chapter 23444, Laws of Florida, 1945, as amended, to read:

Section 17. Effective Date of Retirement.

Any retirement under this plan, whether for service or disability, will be effective the first day of the month following the last day the member works prior to retiring or becoming a DROP participant.

Section 4. A new section 21 is added to chapter 23444, Laws of Florida, 1945, as amended, to read:

Section 21. Deferred Retirement Option Plan.

(1) Deferred Retirement Option Plan—The Deferred Retirement Option Plan, hereinafter referred to as the “DROP,” allows any member who has elected to participate in the DROP, hereinafter referred to as a “DROP participant,” to receive a lump-sum payment, or other payment, in addition to a monthly pension, upon termination of employment. No benefits shall be paid under this section unless the DROP participant has terminated employment.

(2) DROP Eligibility—Any member may elect to participate in the DROP following the date upon which the member completes 20 years of active service as a firefighter with the City of Orlando and is eligible for a service retirement pension. A member may participate in the DROP only once.

(3) DROP Participation—

(a) An eligible member may participate in the Forward DROP for a period not to exceed a maximum of 60 months or, in the alternative, may participate in the Back DROP for a period not to exceed 36 months. Notwithstanding, DROP participation may not continue beyond the date when the member’s combined years of credited service and time in the DROP equals 360 months.

(b) A member may apply to participate in the DROP by submitting an application to the Board of Trustees, which shall include the following:

1. A written election to participate in the DROP. Once submitted to the Board of Trustees, this election will be irrevocable.

2. Selection of the DROP participation and termination dates that satisfy the limitation stated in subsection (2) and paragraph (a). Such termination date shall be in a binding letter of resignation, establishing a deferred termination date.

3. A properly completed DROP application for a service retirement pension.

4. A properly completed designation of named beneficiaries in the event the member dies while participating in the DROP.

5. Any other information as may be required by the Board of Trustees.

(c) The DROP participant shall be a retiree under the provisions of the pension plan. However, participation in the DROP does not alter the DROP participant's employment status, nor does it constitute a contract or guarantee of continued employment.

(d) A DROP participant shall not accrue additional credited service under the pension plan after the effective date of DROP participation.

(4) Benefits Payable Under the DROP—

(a) Effective with the date of DROP participation, the DROP participant's initial monthly service retirement pension, including credited service and average monthly salary, shall be determined and fixed. Such service retirement pension and earnings shall be credited to the DROP participant's DROP account no less than monthly. Such earnings shall be credited as provided in subsection (7).

(b) The effective date of DROP participation for a participant who has elected to receive benefits under the pension plan shall be the first day of the month selected by the member to begin retirement under the pension plan and participation in the DROP.

(c) The service retirement pension and earnings thereon shall be credited to the DROP participant's DROP account periodically, as pension benefit payments would have otherwise been made.

(5) DROP Types—A member eligible for a service retirement pension may elect a Forward DROP or a Back DROP, but not both.

(a) Forward DROP—Under a Forward DROP, a member may retire, deferring receipt of the service retirement pension while continuing employment with the city. In that case, the deferred monthly service retirement pension shall be credited to the DROP participant's DROP account on behalf of the DROP participant, as provided in subsection (4), for the specified period of the DROP participation, as provided in subsection (3). Upon termination of employment, the DROP participant shall receive the balance of his or her DROP account and begin to receive the monthly service retirement pension.

1. A DROP participant remains an employee and receives all the benefits of being an employee during the DROP participation period; provided, however, the DROP participant is not eligible to participate in any other city provided pension or long term disability plan. A DROP participant shall be subject to termination of employment during the DROP participation period to the same extent as he or she was prior to participating in the DROP.

2. Effective with the start date of a DROP participant's Forward DROP participation, a member's contribution and the normal cost contribution to the pension fund by the city, on behalf of the member, shall cease.

(b) Back DROP—Under a Back DROP, a member may retire with a retroactive date of retirement. A member may not select a retroactive retirement date earlier than the date upon which the member first became eligible for a service retirement pension, and in no event shall the retroactive date of retirement be more than 36 months prior to the date of Back DROP election. The monthly service retirement pension shall be determined as of the retroactive retirement date. The member shall then be credited with an account balance in his or her DROP account that is equal to the account balance he or she would have had if he or she had timely elected a Forward DROP under paragraph (a) on the retroactive retirement date. Upon termination of employment, the Back DROP participant shall receive or transfer the balance of this DROP account, pursuant to subsection (10), and shall begin to receive the monthly service retirement pension adjusted to reflect the retroactive retirement date.

(c) Eligibility exception—Notwithstanding the provisions of subsection 3(a), for 60 days after the effective date of this act, a member with more than 324 months of credited service may elect the Back DROP option and will not be subject to the combined years of credited service and DROP participation limitation of 360 months. Said member is subject to the maximum Back DROP participation period of 36 months. A member with more than 324 months of credited service as of the effective date of DROP who does not elect to participate in the DROP, as set forth herein, during this one-time window period shall forfeit the right to deviate from the conditions for participation in the DROP set forth in subsection (3).

(6) DROP Accounts—Individual DROP accounts shall be established to account for each DROP participant's accrued DROP benefits, but there shall be no requirement that funds be segregated for any DROP participant. In the case of a member who selects the Back DROP option, the amount of that member's contributions made during the Back DROP period shall not be refunded or credited to the member.

(7) DROP Benefits Earnings and Reporting—

(a) A DROP participant's DROP account shall accrue earnings at 8% (eight percent) simple interest compounded annually, unless the parties otherwise agree.

(b) A DROP account shall be adjusted to reflect earnings until such time as the DROP account is distributed in full to the DROP participant or his or her beneficiaries.

(c) The Board of Trustees shall report to each DROP participant at least annually accrued DROP benefits in the participant's DROP account.

(8) Cost-of-Living Increase—A DROP participant will not be eligible to participate in cost-of-living increases during the DROP period. Cost-of-living increases will be made pursuant to section 19, starting 3 years after the DROP participant's termination of employment.

(9) Benefits Payable upon Termination of DROP—Upon the DROP participant's termination of employment, for any reason, whether by resigna-

tion, discharge, disability, or death, the monthly service retirement pension will be distributed according to the provisions of this plan and the balance of the DROP account shall be distributed to the DROP participant or, if deceased, the DROP participant's beneficiaries, as provided herein.

(10) Payment Conditions and Options—Upon the DROP participant's termination of employment, for any reason, whether by resignation, discharge, disability, or death, the Board of Trustees shall distribute the balance of the DROP participant's DROP account, subject to the following provisions:

(a) The Board of Trustees shall receive verification from the city that such DROP participant has terminated employment.

(b) Following the termination of employment, the DROP participant or, if deceased, such DROP participant's beneficiaries shall elect on forms provided by the Board of Trustees to receive payment of the balance of the DROP account in accordance with one of the options listed below. For a DROP participant or beneficiaries who fail to elect a method of payment within 60 days of termination of employment, the Board of Trustees shall pay the balance of the DROP account in one lump sum as provided in subparagraph 1.

1. Lump sum—The balance of the DROP account, less taxes remitted to the Internal Revenue Service, if any, shall be paid to the DROP participant or beneficiaries.

2. Direct rollover—The balance of the DROP account shall be paid directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the widow or widower as a beneficiary, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code.

3. Partial lump sum—A portion of the balance of the DROP account shall be paid to the DROP participant or beneficiaries, less taxes remitted to the Internal Revenue Service, if any, and the remaining balance of the DROP account shall be transferred directly to the custodian of an eligible retirement plan as defined in s. 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the widow or widower as a beneficiary, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in s. 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or beneficiaries.

4. Other methods—The balance of the DROP account shall be paid by a method that is in compliance with the Internal Revenue Code and as adopted by the Board of Trustees.

(c) The form of payment selected by the DROP participant or beneficiaries complies with the minimum distribution requirements of the Internal Revenue Code.

(11) Disability—A DROP participant is not eligible to apply for a disability pension under this pension plan.

(12) Death of a DROP Participant—

(a) Upon the death of a DROP participant, the named DROP beneficiaries shall be entitled to apply for and receive the balance of the DROP participant's DROP account as provided in subsections (9) and (10). DROP payments to a beneficiary shall be in addition to any other retirement benefits payable to the beneficiary.

(b) The monthly service retirement pension accrued to the DROP account during the month of the DROP participant's death shall be the final monthly service retirement pension benefit credited for such DROP participant.

(c) Eligibility to participate in the DROP terminates upon the death of the DROP participant. If the DROP participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly service retirement pension benefit being credited to the DROP, pension plan benefits shall be paid in accordance with applicable provisions of this pension plan.

(d) A DROP participant's beneficiaries shall not be eligible to receive survivor benefits as provided in sections 8 and 10.

(13) A DROP participant shall not be deemed to have been reemployed after retirement as that term is used elsewhere in the plan.

(14) Any actuarially-determined additional cost resulting from the benefits in this section shall be borne by the members of the pension plan.

Section 5. A new section 24 is added to chapter 23444, Laws of Florida, 1945, as amended, to read:

Section 24.

(1) Upon implementation, the city shall solely for the purpose of compliance with s. 414(h) of the Internal Revenue Code, pick up, for the purpose specified in that section, member contributions required by the act for all salary earned by the member after implementation. Member contributions picked up under the provisions of this section shall be treated as city contributions for purposes of determining income tax obligations under the Internal Revenue Code; however, such picked up member contributions shall be included in the determination of the member's gross annual salary for all other purposes under federal and state laws.

(2) Members' contributions picked up under this section shall continue to be designated member contributions for all purposes of the act and shall be considered as part of the member's salary for purposes of determining the amount of the member's contributions. The provisions of this section are mandatory, and the member shall have no option concerning the pick up or to receive the contributed amounts directly instead of having them paid by the city to the pension fund.

(3) Implementation occurs upon authorization by the Board of Trustees following receipt of a favorable letter of determination as to the qualified plan status of the fund. In no event may implementation occur other than at the beginning of a pay period.

Section 6. A new section 27 is added to chapter 23444, Laws of Florida, 1945, as amended, to read:

Section 27. Tax Qualification and Statutory Minimums—

(a) The legislative body of the City of Orlando is authorized to amend the pension plan to the limited extent necessary to obtain tax qualification of the plan under the Internal Revenue Code, but must obtain prior agreement of the members and their collective bargaining agent, if any, should such required amendments change any plan benefits.

(b) The legislative body of the City of Orlando is authorized to amend the pension plan to the limited extent necessary to comply with the minimum standards and benefits levels required by Chapter 175, Florida Statutes, in order to allow the plan to receive funds from the Police and Firefighters' Premium Tax Trust Fund, but must obtain prior agreement of the members and their collective bargaining agent, if any, should such required amendments change any plan benefits.

Section 7. This act shall take effect October 1, 2000.

Approved by the Governor June 5, 2000.

Filed in Office Secretary of State June 5, 2000.