

House Bill No. 1715

An act relating to the Firefighters' Relief and Pension Fund of the City of Pensacola, Escambia County, Florida; amending chapter 21483, Laws of Florida, 1941, as amended; providing for gender neutrality; creating a board secretary; providing for a Director of Finance; revising provisions relating to disability pensions and death benefits for survivors; providing for protection of benefits from certain legal processes; providing for rollover distribution allocation; conforming provisions of local law to chapter 175, Laws of Florida; authorizing additional benefits required by law to be provided by ordinance; providing definitions; providing for repeal of conflicting laws; providing an effective date.

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

Section 1. Section 1 of chapter 21483, Laws of Florida, 1941, as amended by chapters 61-2653, 88-536, and 91-397, Laws of Florida, is amended to read:

Section 1. Board of trustees of the Firefighters' Relief and Pension Fund.—There is hereby created in and for the City of Pensacola a board of trustees of the Firefighters' Firemen's Relief and Pension Fund consisting of five members, two of ~~or~~ whom, unless otherwise prohibited by law, shall be legal residents of the municipality, who shall be appointed by the legislative body of the municipality, and two of whom shall be firefighters of the municipality who shall be elected by a majority of the firefighters whose names appear on the rolls as members of the fire department of the municipality. The fifth member shall be chosen by a majority of the previous four members as provided for herein, and such person's name shall be submitted to the legislative body of the municipality. Upon receipt of the fifth person's name, the legislative body of the municipality shall, as a ministerial duty, appoint such person to the board of trustees as its fifth member. The fifth member shall have the same rights as each of the other four members appointed or elected as herein provided. The existing fifth member's term will end on December 31, 1992, with the new appointee, who may be the same person, to commence his or her term on January 1, 1993. The fifth member shall serve as a trustee for a period of 2 years, and may succeed himself or herself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the legislative body at whose pleasure he or she shall serve, and may succeed himself or herself as a trustee. One existing resident member's term will end on December 31, 1991, with the new appointee, who may be the same person, to commence his or her term on January 1, 1992. The other existing resident member's term will end on December 31, 1992, with the new appointee, who may be the same person, to commence his or her term on January 1, 1993. The terms of the resident members will continue in this staggered fashion. Each firefighter member shall serve as trustee for a period of 2 years, unless he or she sooner leaves the employment of the municipality as a firefighter, whereupon his or her successor shall be chosen in the same manner as an

original appointment. One existing firefighter member's term will end on December 31, 1991, with the new appointee, who may be the same person, to commence his or her term on January 1, 1992. The other existing firefighter member's term will end on December 31, 1992, with the new appointee, who may be the same person, to commence his or her term on January 1, 1993. The terms of the firefighter members will continue in this staggered fashion. Each firefighter member may succeed himself or herself in office. The board of trustees shall meet at least quarterly each year. The trustees shall by a majority vote elect a chairperson and a secretary chairman. The trustees shall not receive any compensation as such, but shall receive expenses and per diem as may be provided by ordinance, consistent with Florida law. The board of trustees hereby created shall perform all of the duties and enjoy all of the rights and powers, heretofore by law or ordinance vested in the pension board of the City of Pensacola and shall be and constitute a legal entity with the power to bring and defend lawsuits of every kind, nature, and description. The city attorney of each municipality shall give advice to the board of trustees in all matters pertaining to its duties in the administration of the municipal firefighter's pension trust fund whenever requested; and the city attorney he shall represent and defend the board as its attorney in all suits and actions at law or in equity that may be brought against it and bring all suits and actions in its behalf that may be required or determined upon by the board. However, if the board of trustees so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein, together with such other professional, technical, or other advisers as the board deems necessary. The Firemen's Relief and Pension Fund heretofore created shall continue to exist exclusively for the purposes provided by this and related legislation, and the responsibility for the administration and proper operation thereof and for effectuating the provisions of law relating thereto is vested in ~~the~~ said board of trustees.

Section 2. Section 2 of chapter 21483, Laws of Florida, 1941, is amended to read:

Section 2. Board to act as trustees of fund; records.—The Pension Board of the City of Pensacola shall act as trustees of the Firefighters' Firemen's Relief and Pension Fund and shall perform the duties herein required. The secretary of the Said pension board shall keep a separate and complete minute book of proceedings of the board in reference to the business and affairs relating to the Firefighters' Firemen's Relief and Pension Fund. Said minute book shall at all times be kept in the office of the Director of Finance Clerk of the City of Pensacola and be open to the public for inspection.

Section 3. Section 3 of chapter 21483, Laws of Florida, 1941, is amended to read:

Section 3. Powers.—

(1) In addition to the other powers and authorities granted to it under Florida law, ~~that~~ the pension board shall have power and authority:

(a) To invest and reinvest the assets of the Firefighters' Relief and Pension Fund, as provided by Florida law in interest bearing United States, ~~state, county, district or other political subdivision bonds or certificates of~~

indebtedness, the surplus funds of the Firemen's Relief and Pension Fund, and the accretion shall become part of the fund, and the City Clerk-Comptroller or depository shall keep such bonds.

(b) To cause to be issued payments from warrants upon the Firefighters' Firemen's Relief and Pension Fund pursuant to this act and rules and regulations prescribed by the board.; All such payments warrants shall be made consecutively numbered, and be signed by the officers of the City of Pensacola in the manner now provided by law for the disbursement of city funds, and shall state upon their faces the purposes for which the warrants are drawn. The Director of Finance City Clerk-Comptroller shall maintain an accounting of payments made, retain such warrants, when paid, as permanent vouchers for disbursement made; and no money shall be otherwise drawn from the fund.

(c) To finally decide all claims to relief under this act and under the board's rules and regulations.

(d) To convert into cash any securities of the fund.

(e) To keep a complete record of all receipts and disbursements and of the board's acts and proceedings. Said records shall at all times be kept in the office of the Director of Finance Clerk of the City of Pensacola and be open to the public for inspection; and a statement and audit of the receipts and disbursements shall be made and a copy furnished to each contributor and each pensioner not less than annually once each six (6) months.

(2) Any and all acts and decisions of the pension board shall be effectuated by vote of a majority of the members of such board; however, no trustee shall take part in any action in connection with such trustee's own participation in the fund.

Section 4. Section 4 of chapter 21483, Laws of Florida, 1941, as amended by chapter 24809, Laws of Florida, 1947, chapter 31157, Laws of Florida, 1955, and chapters 57-1713, 59-1723, 61-2653, 77-632, and 99-463, Laws of Florida, is amended to read:

Section 4. Sources of revenue.—There is hereby continued in the City of Pensacola the fund heretofore established and cited as the "Firefighters' Firemen's Relief and Pension Fund," to be maintained in the following manner:

(a) All sums of money in the existing fund as of July 1, 1999, designated "Firemen's Relief and Pension Fund" of said city, shall be and remain therein as assets of the Firefighters' Relief and Pension Fund.

(b) By the net proceeds of the 1.85-percent excise or license tax levied and collected under the authority of chapter 19112, Laws of Florida, 1939, as amended, which may be imposed by the City of Pensacola upon certain insurance companies or other insurers against loss by fire and tornado on their gross receipts of premiums from holders of policies, which policies cover property within the corporate limits of such municipality, or any additional amount that may hereafter be levied and collected. This revenue shall

be used first to fund the cost-of-living adjustment provision, then the benefit for 75 percent of compensation with 25 years of service on normal pension benefits, and then any remaining amount shall be used for the remaining benefits of the plan. If the receipt of this money is not sufficient to pay all benefits of the plan, nevertheless, all benefits of the plan shall be paid.

(c) The City of Pensacola, through its proper officers, shall deduct 11 percent from the compensation of all members of the Firefighters' Firemen's Relief and Pension Fund who are not in the Deferred Retirement Option Plan program, and shall pay the same to the pension board herein created. Such payments shall be deposited in a special account by the City of Pensacola to be designated "Firefighters' Firemen's Relief and Pension Fund" and no employee shall have any right to said money so paid into said fund except as otherwise provided in the act. The contributions may be "pickup" contributions, in accordance with the Internal Revenue Code.

(d) By all fines and forfeitures imposed and collected from any firefighter fireman because of the violation of any rule and regulation promulgated by the pension board.

(e) By all gifts, bequests, and devises when donated for the fund.

(f) By all accretions to the fund by way of interest or dividends on bank deposits or otherwise.

(g) By mandatory payment by the City of Pensacola of a sum equal to the actuarially required funding amount shown by the ~~Fire~~ pension board's actuary's annual actuarial valuation. Balances in the prepayment reserve account provided for in the annual actuary report shall be drawn down before the city is required to make any contributions.

(h) By all other sources or income now or hereafter authorized by law for the augmentation of such fund.

Section 5. Section 5 of chapter 21483, Laws of Florida, 1941, as amended by chapter 22434, Laws of Florida, 1943, chapter 26143, Laws of Florida, 1949, chapter 27814, Laws of Florida, 1951, and chapters 57-1713, 59-1723, 61-2653, 63-1774, 70-889, 77-630, 83-500, 86-453, 87-527, and 99-463, Laws of Florida, is amended to read:

Section 5. Basis for compensation.—The pension of all persons entitled thereto, as hereinafter specified, shall be computed upon the basis of their compensation and their years of service in accordance with the following tables:

(a) Such compensation shall be calculated by the selection from the last 5 years of service immediately preceding retirement of the best 2 of said years, thereby to arrive at the average monthly earnings of such firefighter fireman. Based upon such average monthly rate, a pension shall be paid according to the following table, to wit:

(i) 75 % upon the first \$200.00 of compensation

70 % upon the next \$100.00 of compensation

65 % upon any additional amount; or-

(ii) If an employee retires on a normal pension benefit after July 1, 1999, with 25 years of service or more, the employee shall receive a benefit equal to 75 percent of his or her final average monthly compensation.

(b) The pension of those ~~firefighters~~ ~~firemen~~ retired hereunder for cause other than disability incurred in line of duty, whose period of service shall be less than 25 years, shall be computed under the table set out in subsection (a)(i), and after said amount shall have been so determined, the sum payable shall be reduced to the percentage set opposite the number of years of service shown in the following schedule, to wit:

For 1 year of service or less	30%
For 2 years of service	36%
For 3 years of service	42%
For 4 years of service	48%
For 5 years of service	54%
For 6 years of service	60%
For 7 years of service	64%
For 8 years of service	66%
For 9 years of service	68%
For 10 years of service	70%
For 11 years of service	72%
For 12 years of service	74%
For 13 years of service	76%
For 14 years of service	78%
For 15 years of service	80%
For 16 years of service	82%
For 17 years of service	84%
For 18 years of service	86%
For 19 years of service	88%
For 20 years of service	90%

For 21 years of service	92%
For 22 years of service	94%
For 23 years of service	96%
For 24 years of service	98%
For 25 years of service	100%

(c) The pension of those ~~firemen~~ firefighters retired hereunder because of a disability or injuries received in line of duty, whose period of service shall be less than 25 years, shall be computed under the table set out in subsection (a)(i), and after said amount shall have been so determined, the sum payable shall be reduced to the percentage set opposite the number of years of service shown in the following schedule, to wit:

For 1 year of service or less	60%
For 2 years of service	64%
For 3 years of service	68%
For 4 years of service	72%
For 5 years of service	76%
For 6 years of service	80%
For 7 years of service	82%
For 8 years of service	83%
For 9 years of service	84%
For 10 years of service	85%
For 11 years of service	86%
For 12 years of service	87%
For 13 years of service	88%
For 14 years of service	89%
For 15 years of service	90%
For 16 years of service	91%
For 17 years of service	92%
For 18 years of service	93%
For 19 years of service	94%
For 20 years of service	95%

For 21 years of service	96%
For 22 years of service	97%
For 23 years of service	98%
For 24 years of service	99%
For 25 years of service	100%

(d) Those firefighters ~~firemen~~ whose period of service before attaining the age of 60 years shall exceed 25 years and who retire with a pension calculated under subsection (a)(i) shall receive an increase of 1 percent in the amount of pension for each additional year or major fraction thereof; and in computing any period of service, a major fraction of a year shall be counted as a whole year.

(e) Any ~~duly appointed and enrolled~~ firefighter who upon the taking effect of this act, or hereafter, shall have attained the age of 52 years and who retires with a pension calculated under subsection (a) shall be, upon application to the board of trustees, retired on a pension as in this section is provided; and any such person who shall have served as a duly appointed and enrolled firefighter for a period of 25 years, but who has not attained the age of 52 years, upon application to the board of trustees shall be retired on a pension as in this section provided except that the amount of such pension shall be reduced in the ratio that the applicant's age bears to 52 years. Any time spent in military or naval service, voluntary or compulsory, or other forms of national service in time of war, or within 1 year thereafter, by any person theretofore employed by said city, shall be deemed equivalent to a like period of actual service in the employment of the city for the purpose of securing the benefits of this act; and, further, any employee who shall be laid off because of illness, reduction of force, or other cause not of the employee's own doing and who shall elect not to withdraw his or her contribution to the said retirement fund, or to return the same if withdrawn, shall be entitled to have the period of such service prior to said layoff added to any subsequent service for the purpose of computing his or her period of service.

(f) Any person regularly employed by the City of Pensacola as a ~~duly appointed and enrolled~~ firefighter, who shall while so employed and in line of duty become totally and permanently disabled to perform duties as a firefighter or who shall become so disabled not in the line of duty, through no intentional and self-inflicted injury, shall upon application and the approval thereof by the board of trustees be entitled to and shall receive a pension, to be determined in accordance with the schedules above set out having regard to his or her rate of pay and period of service irrespective of his or her age.

(g) Any firefighter employee retired under the provisions of this section, or any widow or widower entitled to a pension under this chapter, shall be entitled to receive not less than \$500 per month, irrespective of the term of service, and of the results of the tables above set out. This provision is applicable to all persons who are receiving benefits from the Firefighters'

Firemen's Relief and Pension Fund prior to January 1, 1986. They shall receive this benefit as of July 14, 1986.

Section 6. Chapter 74-576, Laws of Florida, as amended by chapters 85-486 and 99-463, Laws of Florida, is renumbered as section 6 of chapter 21483, Laws of Florida, 1941, and amended to read:

Section 6. ~~1.~~ Increase in benefits due to consumer price index increases.—

(a) A cost-of-living increase in benefits paid pursuant to this act shall be given effective July 1, 1999, and shall be paid annually thereafter. Each annual increase shall have an effective date of July 1. All such increases shall be equal to but no greater than the annual increase in the Consumer Price Index (U) issued by the United States Department of Labor, provided that such increase shall in no event be greater than 3 percent per year. The annual CPI (U) period to be used for calculation of any increase shall end in March of the year of the July 1 increase. The increase in the CPI (U) shall be the change in the values from April 1 to March 31. In the event the United States Department of Labor ceases to issue a CPI (U), the board shall utilize a current CPI index that is the functional equivalent.

(b) ~~Section 2.~~ After June 22, 1974, no person shall transfer creditable service from another retirement system into the Firefighters' Firemen's Relief and Pension Fund.

(c) ~~Section 3.~~ The City of Pensacola, by ordinance, may permit but not require members of the Firefighters' Firemen's Relief and Pension Fund who are eligible, to participate in a Deferred Retirement Option Plan program (DROP). The ordinance may include members who are eligible to retire and to receive retirement benefits to remain in the active service of the city until a contractually fixed termination date and to have accumulated for the employee's account from the date the contract is made all benefits which the employee would be eligible to begin receiving on that date and to have those accumulated benefits held for the benefit of the employee until the employee separates from active service. Such ordinance may provide for forfeiture of the accumulated benefits or other penalty if the employee does not comply with the contract. However, if the employee complies in all respects with the terms of the contract, the employee shall receive all retirement benefits the employee would be entitled to under this act upon the employee's actual retirement from the active service of the city.

Section 7. Section 5.5 of chapter 21483, Laws of Florida, 1941, as created by chapter 83-500, Laws of Florida, is renumbered as section 7, and amended to read:

Section 7. ~~5.5.~~ Disability pensions.—Applications, determinations, awards, and re-evaluations of disability pensions for firefighters firemen shall be governed by the following:

(a) Either a firefighter fireman, or the employer on behalf of a firefighter fireman, must make application for disability retirement complete with medical and other evidentiary material as prescribed by the pension board.

(b) Upon receipt of an application for disability retirement, the board of trustees shall make a determination of disability, which determination shall be final. The board of trustees shall employ the service of one or more independent, third party agents, such as, but not limited to, a health and disability claims adjusting firm, to evaluate the case and to make a report containing recommended findings and conclusion, which may be approved or disapproved, or modified in the determination of the board of trustees.

(c) A firefighter will be considered totally and permanently disabled if, in the opinion of the board of trustees, he or she is wholly prevented from rendering useful and efficient service as a firefighter; and a firefighter will be considered totally and permanently disabled if, in the opinion of the board of trustees, he or she is likely to remain so disabled continuously and permanently from a cause other than as specified in subsection (d).

(d) A firefighter will not be entitled to receive any disability retirement income if the disability is a result of:

(i) Excessive and habitual use by the firefighter of drugs, intoxicants, or narcotics;

(ii) Injury or disease sustained by the firefighter while willfully and illegally participating in fights, riots, or civil insurrections or while committing a crime;

(iii) Injury or disease sustained by the firefighter while serving in any armed forces; or

(iv) Injury or disease sustained by the firefighter after his or her employment has terminated.

~~(e)~~(e) The board of trustees, through its third party agents, shall periodically re-evaluate disability pensioners to determine if the condition of total and permanent disability persists. If the pensioner has recovered sufficiently, as determined by the board so that the pensioner is no longer totally and permanently disabled to perform his or her duties as a firefighter fireman, and this determination is made within 1 year of the effective date of the award of the pension, said pensioner shall be reinstated to active service in the same rank he or she occupied prior to the award of his or her pension, and the period of such time which said firefighter fireman is out of active service because of disability shall be credited as part of the period of service required for final retirement. If such determination is made more than 1 year after the effective date of the award of the pension, the pensioner shall be placed on an eligible list to be reinstated to his or her position upon the first vacancy in that position. At such time as a pensioner resumes active service, or at such time as a pensioner refuses to accept reinstatement to active service, the payment of pension benefits shall cease. No firefighter fireman who has attained the age of 52 55 years or who has been in active service as a firefighter fireman for 25 years, and is drawing a pension, shall be restored to duty by any power or for any cause whatsoever.

Section 8. Section 6 of chapter 21483, Laws of Florida, 1941, as amended by chapter 22434, Laws of Florida, 1943, and chapters 57-1713 and 86-450, Laws of Florida, is renumbered as section 8, and amended to read:

Section 8. 6. Automatic retirement.—Any firefighter employee or person, subject to the provisions of this act attaining the age of seventy (70) years shall be automatically retired and shall cease to draw his or her compensation as such employee, but shall become immediately entitled to the pension or benefits provided hereby. In the event of doubt as to the attainment of such age, the Civil Service Board shall make inquiry and determine such fact after due notice to interested parties; provided that the provisions of this section shall not become operative until January 1, 1960, the former law remaining in effect until such date.

Section 9. Section 9 of chapter 57-1713, Laws of Florida, as amended by chapters 59-1723, 87-527, 89-444, and 89-474, Laws of Florida, is renumbered as section 10 of chapter 21483, Laws of Florida, 1941, and amended to read:

Section 10. 9. Retirement after 10 years' service.—If any firefighter of the City of Pensacola shall, after serving as such for a period of 10 full years or becoming otherwise eligible for retirement, cease to be such firefighter for any cause and shall not make withdrawal of all his or her contributions to the Firefighters' Firefighters Relief and Pension ~~Trust~~ Fund as provided by law, or having withdrawn the same, shall return it with 8 percent interest from the date of such withdrawal, he or she shall be eligible to receive the benefits equal to the amount provided in section subsection 5(a), multiplied by the number of years of service; for this purpose only the number of years of service can be no more than 25 and divided by 25 years upon attaining the age of 52 years or becoming eligible for retirement by length of service or otherwise; his or her spouse and children shall in the event of his or her death be likewise so entitled.

Section 10. Section 3 of chapter 22434, Laws of Florida, 1943, is renumbered as section 11 of chapter 21483, Laws of Florida, and amended to read:

Section 11. 3. Power to transfer other unused revenues to fund.—The City of Pensacola, by resolution of the council, is hereby empowered to transfer to the Firefighters' Firemen's Relief and Pension Fund any revenues budgeted or allocated by law or ordinance for other purposes, whenever it shall appear to the council that the same are not required for the purpose for which they were budgeted or allocated.

Section 11. Section 7 of chapter 21483, Laws of Florida, 1941, as amended by chapters 57-1713, 87-527, 89-444, and 89-474, Laws of Florida, is renumbered as section 12, and amended to read:

Section 12. 7. Refunds upon termination of employment.—In the event that any firefighter resigns or is discharged from the service of the City of Pensacola, he or she shall be entitled to a refund of all the sums he or she theretofore contributed to the Firefighters' Firefighters Relief and Pension ~~Trust~~ Fund (including "pickup" contributions) and payment thereof shall be made to such former firefighter employee in full satisfaction of any and all claims which he or she or any person claiming by, through, or under him or her may have against said fund.

Section 12. Section 8 of chapter 21483, Laws of Florida, as amended by chapter 24809, Laws of Florida, 1947, chapter 27814, Laws of Florida, 1951, and chapters 57-1713, 80-580, 85-413, 85-485, and 87-527, Laws of Florida, is renumbered as section 13 and amended to read:

Section 13. ~~8~~. Death benefits for survivors.—

(a) In the event of the death of a pensioner while he or she is actually drawing a pension under the provisions of this act, or in the event of the death of any person entitled to the benefits of this act, who shall have been employed as a firefighter ~~duly appointed and enrolled fireman~~, the widow or widower of such person, so long as she or he remains unmarried, shall be paid a monthly pension equal to one-twelfth ($\frac{1}{12}$ th) of seventy-five percent (75%) of the annual pension which the deceased pensioner or person so entitled was receiving or to which he or she would have been entitled in the event of retirement as of the date of his or her death, having regard to his or her period of service and rate of compensation, irrespective of his or her age, which pension shall be for the use of the said widow or widower. If the widow's or widower's pension has been terminated due to remarriage and such marriage ends in the spouses' death or divorce, then the widow's or widower's pension may be restored by the pension board in the same amount as previously provided by provisions of this act.

(b) If any person eligible to the benefits of this act (Article XVI), as provided in the preceding subsection, shall at the time of his or her death be survived by one or more legitimate children under the age of 18 years, then such children shall each be entitled to receive a sum equal to 12 percent of the annual salary of the deceased, payable in monthly installments to his or her parent or guardian for his or her use, if there be also a widow or widower entitled to receive a pension; but should there be no widow or widower or should such widow or widower remarry, the pension of such children shall be increased to 18 percent of the annual salary aforesaid; provided further, that the total of such pension or allowances for the widow or widower and/or children under the age of 18 years shall not exceed at any time 65 percent of the prevailing wage for the rank the deceased held at the time of his or her death, and such allowance shall each abate proportionately in accordance with such maximum limit. Provided further, that any person that marries a pensioner subsequent to her or his retirement shall be entitled to a reduced pension in proportion to the ratio that her or his cohabitation with the pensioner shall bear to 3 years. After 3 years the widow or widower will then have full pension benefits. All pensions to widows or widowers or children shall be computed in accordance with the schedules set forth in this act.

(c) In the event that any firefighter shall die under circumstances that there are no survivors eligible to receive benefits under this act, his or her contributions shall be paid to the estate of such person to be distributed under such estate laws.

Section 13. Section 9 of chapter 21483, Laws of Florida, 1941, as amended by chapter 26143, Laws of Florida, 1949, is renumbered as section 14, and amended to read:

Section ~~14.~~ 9. Accidental death or injury benefits.—If an employee shall lose his or her life or later die from injuries received while in the discharge of his or her duties, his or her widow or widower shall, ~~so long as she remains unmarried,~~ be paid a monthly pension by the pension board, out of the Firefighters' Firemen's Relief and Pension Fund, equal to one-twelfth of seventy-five (75) percent of the annual salary received by the deceased firefighter fireman at the time of his or her death, which pension shall be for the use of the widow or widower and the children, if any are under eighteen years of age, of her or his deceased husband or wife; provided that under no circumstances should the total of such pension amount to more than one hundred twenty-five dollars (\$125.00) monthly. If such firefighter firemen at the time of his or her death shall not be survived by a widow or widower but shall be survived by one or more legitimate children under the age of eighteen years, or if being survived by a widow or widower, she or he shall die before the youngest of said children shall attain the age of eighteen years, then and in either of said events children of such deceased firefighter fireman shall each be entitled to receive a sum, to be fixed in the discretion of the board of trustees, in an amount not to exceed fifteen dollars (\$15.00) per month until such child shall have attained the age of eighteen years; provided, however, that the sum total allowances of children's pensions under this clause shall in no event exceed the sum of forty-five dollars (\$45.00) per month in any one family.

Section 14. Section 10 of chapter 21483, Laws of Florida, 1941, is renumbered as section 15, and amended to read:

Section 15. 10. Benefits to widows, widowers, and dependents.—If a widow or widower enjoying a pension under any of the provisions of this act shall die, her or his pension shall cease, and if she or he shall remarry while enjoying any such pension, then and in the latter event, her or his pension shall cease and shall not be paid to such widow or widower; provided, however, in the event the deceased firefighter employee shall be survived by one or more legitimate children under the age of eighteen years at the time the widow or widower shall remarry, the pension board may, in its discretion, grant an amount for the support and maintenance of said child or children until said child or children become eighteen years of age, not to exceed ten dollars (\$10.00) per month for each child, in no event to exceed the sum of forty dollars (\$40.00) per month for any one family.

Section 15. Section 12 of chapter 21483, Laws of Florida, 1941, is renumbered as section 16, and amended to read:

Section 16. 12. Contributions during service-connected temporary sickness or disability.—Whenever any firefighter ~~duly appointed member of the fire department,~~ on account of any temporary sickness or disability caused or sustained while in the discharge of his or her duty as such member, is ~~be~~ confined to any hospital or to his or her bed, and shall require medical and professional nursing, care, or attention, the pension board may, out of the pension fund, make such contribution to his or her medical and hospital or professional nursing care and expenses as in the board's ~~their~~ discretion shall be reasonable.

Section 16. Section 13 of chapter 21483, Laws of Florida, 1941, is renumbered as section 17, and amended to read:

Section 17. ~~13.~~ DEATH SUPPLEMENT.—In the event of the death of any pensioner while receiving a pension, or in the event of the death of any firefighter ~~duly appointed fireman~~, the pension board may, upon the request of the next of kin of the deceased, contribute out of the Firefighters' Firemen's Relief and Pension Fund of said city or town, a sum not to exceed two hundred dollars (\$200.00) as a death supplement for funeral expenses, which the pension board may in its discretion ~~discretion~~ pay to the said next of kin ~~or directly to the undertaker~~. This death supplement ~~funeral allowance~~, however, shall be in addition to any pension allowable under this act.

Section 17. Section 15 of chapter 21483, Laws of Florida, is renumbered as section 19, and amended to read:

Section 19. ~~15.~~ Protection of benefits from legal process.—The pensions and other benefits accrued or accruing to any person under this pension plan and the accumulated contributions and the cash securities in the funds created under this plan are exempted from any state, county, or municipal tax and shall not be subject to execution or attachment or to any legal process whatsoever, and shall be unassignable. No pension provided for shall be assignable nor shall such pension be subject to attachment, garnishment, execution or to any other legal process.

Section 18. Section 16 of chapter 21483, Laws of Florida, 1941, is renumbered as section 20, and amended to read:

Section 20. ~~16.~~ Records to be kept by secretary of the board.—The secretary of the pension board shall keep a record of all persons enjoying a pension under the provisions of this act, in which shall be noted the time when the pension is allowed and when the same shall cease to be paid. And in this book the secretary shall keep a record of all firefighters ~~firemen~~ employed by the municipality and a record shall be kept in such manner as to show the name, address, and time of employment of such firefighters ~~firemen~~ and when such firefighters ~~firemen~~ cease to be employed by the municipality.

Section 19. Section 18 of chapter 21483, Laws of Florida, 1941, as amended by chapter 87-527, Laws of Florida, is renumbered as section 22, and amended to read:

Section 22. ~~18.~~ City Attorney to act as attorney for the board.—The City Attorney shall give advice to the board of trustees in all matters pertaining to its duties whenever requested; and he ~~or she~~ shall represent and defend the board as its attorney in all suits and actions at law or in equity that may be brought against it and bring all suits and actions in its behalf that may be required that are determined upon the board. However, if the board of trustees so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein, together with such other professional, technical, or other advisers as the board deems necessary.

Section 20. Section 19 of chapter 21483, Laws of Florida, 1941, as amended by chapter 87-527, Laws of Florida, is renumbered as section 23, and amended to read:

Section ~~23.~~ 19. Depositing of funds and securities.—All funds and securities of the Firefighters' Fireman's Relief and Pension Trust Fund may be deposited by the Board of Trustees with the Director of Finance ~~treasurer~~ of the city, acting in a ministerial capacity only, who shall keep the same in a separate fund, and he or she shall be liable for the safekeeping of the same, under the bond given by him or her to the city, and he or she shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of the funds of the city.

Section 21. Section 20 of chapter 21483, Laws of Florida, 1941, as amended by chapters 57-1713, 63-1774, 77-630, and 99-463, Laws of Florida, is renumbered as section 24, and amended to read:

Section ~~24.~~ 20. Benefits supplemental to workers' compensation; diseases deemed contracted in line of duty.—

(1) If any firefighter ~~employee~~ eligible for the benefits of this act shall die under such circumstances as to entitle his or her widow or widower or children to benefits hereunder, such widow, widower, or children shall be entitled to receive such benefits payable to them or any of them; and in the event of disability of any pensioner, the pensioner shall be entitled to such pension as is hereby provided. However, effective January 1, 2000, the total of the pension and workers' compensation benefits, not to include benefits provided as a reimbursement of medical costs incurred as the result of the compensable injury, shall not exceed 100 percent of the firefighter's ~~employee's~~ average monthly salary. Should the total of the benefits exceed 100 percent of the average monthly salary, the pension benefit shall be reduced so as not to cause the total pension and workers' compensation benefit to exceed 100 percent. In the event a firefighter ~~an employee~~ eligible for benefits under this act receives a lump-sum settlement of a workers' compensation disability claim, the benefits received shall be prorated over a 10-year projected period for the purposes of the offset of any benefit in excess of 100 percent. For the purpose of this part, workers' compensation disability benefits are primary and the Firefighters' Relief Firemen's Rescue and Pension Fund benefits are secondary. Since pension benefits are secondary, the pension benefits shall be reduced in order to observe the cap. No reduction of benefits shall be implemented until a firefighter ~~an employee~~ eligible for the benefits under this act realizes the other benefit sources, workers' compensation disability benefits. The firefighter ~~employee~~ eligible for benefits must advise the plan administrator of the receipt of benefits from a primary source, workers' compensation disability benefits, within 3 days after the incipient receipt of the benefits. Any cost-of-living adjustment as provided by chapter 74-576, Laws of Florida, as amended by chapter 99-463, Laws of Florida, and this act, shall be calculated on the full benefit, prior to the offset.

(2) Any condition or impairment of health of a firefighter ~~fireman~~ caused by lung diseases, hypertension, heart disease, or hardening of the arteries

resulting in total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty unless the contrary be shown by competent evidence, provided, however, that such firefighter fireman shall have successfully passed a physical examination before entering into such service, which examination failed to reveal any evidence of such condition.

Section 22. Section 1 of chapter 31158, Laws of Florida, 1955, is renumbered as section 26 of chapter 21483, Laws of Florida, 1941, and amended to read:

Section 26. 1. Compiling employment periods for purposes of continuous service.—Whenever it is now provided by law that a firefighter has been employed duly appointed and enrolled fireman, whether continuously or discontinuously, for the required total period, and he or she shall be entitled to add together such periods of discontinuous service to secure the benefits now granted for continuous service of a like period; provided, however, that before such firefighter fireman may take advantage of this provision, if he or she shall have withdrawn the contributions or any part thereof theretofore paid by him or her into the Firefighters' Firemen's Relief and Pension Fund, he or she shall return to the said fund such sum so withdrawn, and shall do so within a period of six (6) months next succeeding the beginning of his or her last period of employment, or, if he or she be now in such last period, shall repay the said sum within one year after the effective date of this act.

Section 23. Section 28 is added to chapter 21483, Laws of Florida, 1941, to read:

Section 28. Rollover distributions.—Notwithstanding any provision of the Firefighters' Relief and Pension Fund to the contrary that would otherwise limit a firefighter's or retired firefighter's election (or such deceased individual's surviving spouse's election) under this fund, such firefighter or retired firefighter, or such deceased individual's surviving spouse, may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by such pensioner in a direct rollover.

Section 24. Section 29 is added to chapter 21483, Laws of Florida, 1941, to read:

Section 29. Additional benefits required by law.—To the extent that the City of Pensacola, as an employer of firefighters and plan sponsor, may be required by law to provide additional benefits to firefighters employed by the city, or their beneficiaries, those additional benefits may be provided by ordinance.

Section 25. Section 30 is added to chapter 21483, Laws of Florida, 1941, to read:

Section 30. Definitions.—The following words and phrases have the following meanings:

(a) “Compensation,” “salary,” and “earnings” mean the wages paid to a firefighter, longevity pay, overtime pay, station or watch captain pay, special duty pay, in-service sick leave redemption pay (when paid), bonuses, lump-sum payments not paid at termination, inclusive of employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the Internal Revenue Code if the firefighter would receive those reductions or deferrals if he or she were not participating in such program, and any other payments required by law to be included in pension calculations.

(b) “Deferred Retirement Option Plan” or “DROP” means a retirement option in which a firefighter may elect to participate, under which a firefighter may retire for all purposes of the plan and defer receipt of retirement benefits into a DROP account while continuing employment with the city.

(c) “Direct rollover” means a payment by the Firefighters’ Relief and Pension Fund to the eligible retirement plan specified by the firefighter or retired firefighter or such deceased individual’s surviving spouse.

(d) “Eligible retirement plan” means an individual retirement account described in section 408(a) of the Internal Revenue Code of 1986, an individual retirement annuity described in section 408(b) of the Internal Revenue Code of 1986, an annuity plan described in section 403(a) of the Internal Revenue Code of 1986, or a qualified trust described in section 401(a) of the Internal Revenue Code of 1986 that accepts the firefighter’s or retired firefighter’s eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased firefighter or deceased retired firefighter, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(e) “Eligible rollover distribution” means any distribution of all or any portion of the balance to the credit of the firefighter or retired firefighter, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the firefighter or retired firefighter or the joint lives (or joint life expectancies) of the firefighter or retired firefighter and such individual’s designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code of 1986; and the portion of any distribution that is not includable in gross income.

(f) “Enrolled actuary” means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(g) “Firefighter” means any person employed by the City of Pensacola fire department who is certified as a firefighter as a condition of employment in accordance with the provisions of s. 633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life, or to protect property.

(h) "Retiree" or "retired firefighter" means a firefighter who has entered retirement status. A firefighter who enters a DROP created by the City of Pensacola for firefighters shall be considered a retiree for all purposes of the Firefighters' Relief and Pension Fund.

(i) "Retirement" means a firefighter's separation from city employment as a firefighter with the immediate eligibility for receipt of benefits under the Firefighters' Relief and Pension Fund, including entry into a Deferred Retirement Option Plan.

Section 26. All laws or parts of laws in conflict herewith are repealed.

Section 27. This act shall take effect upon becoming a law.

Approved by the Governor June 7, 2000.

Filed in Office Secretary of State June 7, 2000.