

House Bill No. 1719

An act relating to the General Pension and Retirement Fund of the City of Pensacola, Escambia County; amending chapter 99-474, Laws of Florida; redefining “salary”; revising membership requirements and exclusions; revising provisions of eligible rollover distributions; revising provisions providing for separation from service and reemployment; revising provisions relating to normal retirement with 20 or more years of credited service; revising provisions providing for early retirement at 25 years of credited service; revising provisions providing for normal retirement with less than 20 years of credited service; revising provisions providing for disability injury or illness in the line of duty and for disability injury or illness not in the line of duty; revising provisions relating to other benefit provisions; providing for election of members to participate in other defined benefit pension plans; providing for additional benefits; providing for repeal of conflicting laws; providing an effective date.

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

Section 1. Subsection (29) of section 2 of chapter 99-474, Laws of Florida, is amended to read:

Section 2. Definitions.—The words and phrases as used in this act shall have the following meanings unless a different meaning is plainly required by the context:

(29) Salary.—The total cash remuneration paid to the member of the plan by the city for services rendered before all pretax, salary deferral, or salary reduction contributions made to the General Pension and Retirement Fund on behalf of the general pension plan member under section 404(h)(2) of the Internal Revenue Code and any code section 457 plan and section 125 plan of the city. Unless otherwise provided by the city council, “salary” shall exclude any educational incentive pay, field training pay, certificate pay, specialized duty pay, pistol qualifications pay, clothing allowance, education benefit, accumulated sick leave pay at retirement, accumulated vacation pay at retirement, shift differential pay, nonsubstantiated business expenses, noncash benefits such as employer-provided vehicles, or any other city-provided benefit, severance pay, or similar lump-sum payment made upon separation of service, and any other pay excluded by the city council.

Section 2. Section 7 of chapter 99-474, Laws of Florida, is amended to read:

Section 7. Membership requirements and exclusions.—

(1) All permanent full-time employees of the city automatically become, upon employment, members of the General Pension and Retirement Fund of the city, except that the city may by ordinance amend or revise the foregoing membership criteria in the General Pension and Retirement

Fund, provided, however, that in no event shall the following be permitted to participate in the General Pension and Retirement Fund:

~~(1)(a)~~ Employees Members of the fire department of the city who are eligible to participate in under the Firefighters' Firemen's Relief and Pension Fund.

~~(2)(b)~~ Any officer or employee of the police department hired on or after October 1, 1979, who is eligible to participate in the Police Officers' Retirement Fund of the city.

~~(3)(c)~~ City fire and police department public safety cadets.

~~(4)(d)~~ All permanent full-time employees of the city hired prior to October 6, 1997, making an election not to participate in the plan and having continuous service from October 6, 1997, until retirement.

~~(5)(e)~~ Any individual who is drawing a normal retirement or early retirement benefit and who is subsequently reemployed by the city. Such individual shall not be eligible for current participation in the plan and shall continue to draw a pension benefit from the plan.

~~(6)(f)~~ Elected officials of the city.

(7) Any employee hired on or after October 18, 1999, who is eligible for membership in another of the city's defined benefit pension plans.

(8) All employees who participate in another of the city's defined benefit pension plans except for employees hired prior to October 1, 1979, who have continuously participated in this plan and the Police Officers' Retirement Fund.

~~(2) As a condition of eligibility of such employees to credit toward future retirement benefits based upon prior years of service as an employee of the city, there shall be paid to the fund or transferred from qualified plans maintained by the city or other qualified retirement plans an amount determined by the plan administrator to be sufficient to cover such prior years of service at 8 percent interest compounded annually. However, the plan from which such funds are transferred must permit the transfer to be made and the transfer must not jeopardize the tax-exempt status of this plan or create adverse tax consequences for the city.~~

Section 3. Section 10 of chapter of 99-474, Laws of Florida, is amended to read:

Section 10. Eligible rollover distributions.—

(1) For distributions made on or after January 1, 1993, notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the plan administrator rules and regulations of the board, to have any portion of any eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(2) The following words and phrases, as used in this section, shall have the following meanings unless a different meaning is plainly required by the context:

(a) Eligible rollover distribution.—An eligible rollover distribution is any distribution of all or any portion of the balance of the General Pension and Retirement Fund to the credit of the distributee. Eligible rollover distribution, however, does not include:

1. 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 distributee or the joint lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more.

2. Any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code of 1986, ~~as amended.~~

3. The portion of any distribution that is not includable in gross income (~~determined without regard to the exclusion for net unrealized appreciation with respect to employer securities) of the distributee, such as that portion of a distribution attributable to employee after-tax contributions to the plan.~~

(b) Eligible retirement plan.—An eligible retirement plan is an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the code, an annuity plan described in section 403(a) of the code, or a qualified trust described in section 401(a) of the code that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(c) Distributee.—A distributee includes an employee or former employee who receives any distributions from the General Pension and Retirement Fund. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code, are distributees with regard to the interest of the spouse or former spouse.

(d) Direct rollover.—A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

Section 4. Subsections (1) and (2) of section 13 of chapter 99-474, Laws of Florida, are amended to read:

Section 13. Separation from service and reemployment.—

(1) Former members of the plan.—Any employee who has separated from employment with the city for any reason except normal retirement or early retirement, hereinafter referred to as "nonemployment," and who withdrew his or her contribution to the plan, shall upon reemployment, if within 10 years after the last separation date, be entitled to buy back his or her prior

service years under the plan for the purpose of computing the period of service under the plan. The employee shall not be entitled to buy back periods of nonemployment except as provided by section 14 of this act. Upon reemployment, if the employee elects to repay the contributions or to transfer funds from qualified plans maintained by the city, or other qualified retirement plans upon reemployment, he or she shall have 6 months from the reemployment date to repay the withdrawn contributions plus 8 percent interest compounded annually from the date of withdrawal. However, the plan from which such funds are transferred must permit the transfer to be made and the transfer must not jeopardize the tax-exempt status of this plan or create adverse tax consequences for the city.

(2) Former nonmembers of the plan.—Any employee who has separated from employment, hereinafter referred to as “nonemployment,” with the city for any reason, who has never been a member of the General Pension and Retirement Fund, and who is reemployed within 10 years after the last separation date may elect to have his or her eligible prior service years added to his or her subsequent service for the purpose of computing the period of service under the plan. The employee shall not be entitled to buy back periods of nonemployment except as provided by section 14 of this act. Service years eligible for another city-defined benefit plan shall not be included in the calculation of the period of service under the General Pension and Retirement Fund. The employee shall have 6 months from the date of reemployment to pay or transfer funds from qualified plans maintained by the city, or other qualified retirement plans, an amount determined by the plan administrator to be sufficient to cover such period of eligible prior service years at 8 percent interest compounded annually. However, the plan from which such funds are transferred must permit the transfer to be made and the transfer must not jeopardize the tax-exempt status of this plan or create adverse tax consequences for the city.

Section 5. Section 17 of chapter 99-474, Laws of Florida, is amended to read:

Section 17. Normal retirement with 20 or more years of credited service under the plan.—

(1) All members of the plan who have attained the age of 55 years who have at least 20 credited service years under the plan or, effective October 1, 1999, who regardless of age have 30 credited service years preceding the date of application for retirement may apply for and be entitled to benefits under the provisions of this act. In calculating the years of service under the plan, a major fraction of a year shall be computed as a whole year. A member of the plan must be separated from the employment of the city to receive a pension under the plan pursuant to this section, except as otherwise provided for in section 27.

(2) If any member of the plan has not attained the age of 55 years after a period of 20 credited service years under the plan and does not make withdrawal of funds from the General Pension and Retirement Fund, such employee shall be eligible to receive a pension after attaining the age of 55 years. It is the intent of this provision that said member shall of the plan

must have a vested right to said pension. A major fraction of a year of credited service shall be computed as a whole year for the purpose of vesting rights.

(3) For the purpose of determining the monthly pension of an employee:

(a) The General Pension and Retirement Fund of the city shall pay to each member of the plan retired hereafter, whose credited service years under the plan are not less than 20 years and who has attained the age of 55 years or, effective October 1, 1999, who regardless of age has 30 credited service years, a pension which has as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first	\$200
50% upon the next	\$100
40% upon all in excess thereof; and	

(b) Any employee who has attained 20 credited years of service under the plan and who elects to remain employed after reaching 55 years of age shall upon retirement be entitled to all of the rights and benefits provided for in this act, and, in addition, the monthly pension shall be increased by 1 percent for each year of credited service between the age of 55 years and the actual age of retirement, but not for any year beyond the age of 70; or

(c) The monthly pension for a member of the plan who retires on or after July 1, 1988, shall be equal to 2 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding retirement times the number of years of credited service under the plan not in excess of 30 credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this subsection; ~~or-~~

(d) The monthly pension for a member of the plan who retires on or after July 1, 2000, shall be equal to 2.1 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding retirement times the number of years of credited service under the plan not in excess of 30 credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section.

(4) The monthly pension shall in no event be less than \$25 for each year of credited service under the plan not in excess of 20 years.

Section 6. Section 18 of chapter 99-474, Laws of Florida, is amended to read:

Section 18. Early retirement at 25 years of credited service, ~~having attained the age of 45 years.~~—

(1)(a) Any member of the plan who has 25 credited service years under the plan prior to attaining the age of 55 years may retire at any time ~~after reaching the age of 45 years~~ and receive a reduced pension, which shall have as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. A major fraction of a year of credited service under the plan shall be computed as a whole year. A member of the plan must be separated from the employment of the city to receive a pension under the plan pursuant to this section, except as otherwise provided for in section 27. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first	\$200
50% upon the next	\$100
40% upon all in excess thereof; or	

(b) The monthly pension for a member of the plan who retires on or after July 1, 1988, shall be equal to 2 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding retirement times the number of years of credited service under the plan not in excess of 30 years, unless the payments would be greater if calculated by the formula set forth above.

(2) After said amount has been determined, the sum payable shall be adjusted by the following factors for early retirement as may be applicable to the member's age at the time of retirement:

Retirement Factors

Age at retirement	Factor
55	1.000
54	.928
53	.856
52	.784
51	.730
50	.676
49	.622
48	.586
47	.550
46	.514
45	.478

(3) The monthly pension shall in no event be less than \$25 for each year of credited service not in excess of 20 years.

(4)(a) Notwithstanding subsections (1)(b) and (2), effective July 1, 2000, the monthly pension for a member of the plan who retires on or after July 1, 2000, shall be equal to 2.1 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding retirement times the number of years of credited service under the plan not in excess of 30 credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section.

(b) After said amount has been determined, the sum payable shall be adjusted by the following factors for early retirement as may be applicable to the member's age at the time of retirement if less than the age of 55, or the member's years of credited service if less than 30 years but greater than 25 years, whichever will provide the greater benefit:

Retirement Factors (Age)

<u>Age at retirement</u>	<u>Factor</u>
<u>55</u>	<u>1.00</u>
<u>54</u>	<u>.97</u>
<u>53</u>	<u>.94</u>
<u>52</u>	<u>.91</u>
<u>51</u>	<u>.88</u>
<u>50</u>	<u>.85</u>
<u>49</u>	<u>.82</u>
<u>48</u>	<u>.79</u>
<u>47</u>	<u>.76</u>
<u>46</u>	<u>.73</u>
<u>45</u>	<u>.70</u>
<u>44</u>	<u>.67</u>
<u>43</u>	<u>.64</u>
<u>42</u>	<u>.61</u>
<u>41</u>	<u>.58</u>

Retirement Factors (Years)

<u>Years of Service</u>	<u>Factor</u>
<u>30</u>	<u>1.00</u>
<u>29</u>	<u>.97</u>
<u>28</u>	<u>.94</u>
<u>27</u>	<u>.91</u>
<u>26</u>	<u>.88</u>
<u>25</u>	<u>.85</u>

Section 7. Section 19 of chapter 99-474, Laws of Florida, is amended to read:

Section 19. Normal retirement with less than 20 years of credited service under the plan.—After a period of 10 credited years of service under the plan, any member of the plan not having made withdrawal of funds from the General Pension and Retirement Fund shall be eligible to receive a pension upon attaining the age of 60 years. Said member of the plan shall have a vested right to said pension. However, any member of the plan leaving employment must have a period of not less than 10 credited service years under the plan in order to obtain a vested interest and right to pension benefits. A major fraction of a year of credited service shall not be computed as a whole year for the purpose of vesting rights. A member of the plan must be separated from the employment of the city to receive a pension under the plan pursuant to this section, except as otherwise provided for in section 27.

(1)(a) The General Pension and Retirement Fund of the city shall pay to those members of the plan with less than 20 credited service years under the plan a pension which shall have as its basis for calculation the selection of

the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. A major fraction of a year of credited service under the plan shall be computed as a whole year. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first	\$200
50% upon the next	\$100
40% upon all in excess thereof; and	

(b) After said amount has been determined, the sum payable shall be reduced to the percentage set opposite the number of years of credited service shown in the following schedule:

For 10 years of service	60%
For 11 years of service	63%
For 12 years of service	66%
For 13 years of service	69%
For 14 years of service	72%
For 15 years of service	75%
For 16 years of service	80%
For 17 years of service	85%
For 18 years of service	90%
For 19 years of service	95%

(2) The monthly pension shall in no event be less than \$25 for each year of credited service under the plan not in excess of 20 years.

Section 8. Subsection (1) of section 21 of chapter 99-474, Laws of Florida, is amended to read:

Section 21. Disability injury or illness in line of duty.—If any member of the plan, due to injury or illness in the line of duty, makes application for retirement and is entitled to the benefits under this act, the General Pension and Retirement Fund of the city shall pay according to the following schedule:

(1)(a) The General Pension and Retirement Fund of the city shall pay to each member of the plan retired hereafter because of injury or illness in the line of duty, whose period of credited service under the plan is not less than 20 years, a pension which has as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first	\$200
50% upon the next	\$100
40% upon all in excess thereof; and	

(b) Any employee who has attained 20 years of credited service under the plan and who elects to remain employed after reaching 55 years of age shall upon disability retirement be entitled to all of the rights and benefits provided for in this act, and, in addition, the monthly pension shall be increased by 1 percent for each year of service between the age of 55 years and the actual age of disability retirement, but not for any year beyond the age of 70; or

(c) The monthly pension for a member of the plan who retires on or after July 1, 1988, shall be equal to 2 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding disability retirement times the number of years of credited service under the plan not in excess of 30 years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section; or.

(d) The monthly pension for a member of the plan who retires on or after July 1, 2000, shall be equal to 2.1 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding retirement times the number of years of credited service under the plan not in excess of 30 credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section.

Section 9. Section 23 of chapter 99-474, Laws of Florida, is amended to read:

Section 23. Disability injury or illness not in the line of duty.—

(1) If any member of the plan who, due to injuries or illness not in the line of duty, makes application for disability retirement and is entitled to the benefits under this act, the General Pension and Retirement Fund of the City of Pensacola shall pay according to the following schedule. In computing the number of years of credited service under the plan, a major fraction of a year shall be computed as a whole. The disability benefits provided for shall be in addition to any other benefits payable.

~~(2)(4)(a)~~ The General Pension and Retirement Fund of the city shall pay to each member of the plan retired hereafter because of injuries or illness not in the line of duty, whose period of credited service is not less than 20 years, a pension which has as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first	\$200
50% upon the next	\$100

40% upon all in excess thereof; and

(b) Any employee who has attained 20 years of credited service under the plan and who elects to remain employed after reaching 55 years of age shall upon retirement be entitled to all of the rights and benefits provided in this act, and, in addition, the monthly pension shall be increased by 1 percent for each year of credited service between the age of 55 years and the actual age of retirement, but not for any year beyond the age of 70; or

(c) The monthly pension for a member of the plan who retires on or after July 1, 1988, shall be equal to 2 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding retirement times the number of years of credited service under the plan not in excess of 30 years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section; or.

(d) The monthly pension for a member of the plan who retires on or after July 1, 2000, shall be equal to 2.1 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding retirement times the number of years of credited service under the plan not in excess of 30 credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section.

~~(3)~~(2)(a) The General Pension and Retirement Fund of the city shall pay to those members of the plan retired hereafter because of injury or illness not in the line of duty, whose period of credited service under the plan is less than 20 years, a pension which has as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first	\$200
50% upon the next	\$100
40% upon all in excess thereof; and	

(b) After said amount has been determined, the sum payable shall be reduced to the percentage set opposite the number of years of credited service shown in the following schedule:

For 10 years of service	60%
For 11 years of service	63%
For 12 years of service	66%
For 13 years of service	69%
For 14 years of service	72%
For 15 years of service	75%

For 16 years of service	80%
For 17 years of service	85%
For 18 years of service	90%
For 19 years of service	95%

~~(4)~~(3) The monthly pension shall in no event be less than \$25 for each year of credited service under the plan not in excess of 20 years.

~~(5)~~(4) In the event any member of the plan with less than 10 years of credited service under the plan becomes totally or partially disabled not in the line of duty and such member is disabled to such an extent that he or she cannot properly discharge the duties of his or her employment, such member shall receive, in lieu of a pension, a refund of the total amount of his or her contributions to the General Pension and Retirement Fund. A major fraction of a year of credited service shall not be computed as a whole year for the purpose of vesting rights.

(a) The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan.

(b) Distribution election and distribution of a refund of contributions shall be made within 90 days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

(c) Any refund of the member’s contributions under this act shall be in full satisfaction of any and all claims by any person against the General Pension and Retirement Fund.

Section 10. Paragraph (b) of subsection (2) of section 24 of chapter 99-474, Laws of Florida, is amended to read:

Section 24. Other benefit provisions.—

(2) In the event of the death of an individual eligible to receive benefits under this act, his or her dependents or beneficiaries shall become immediately entitled to the benefits herein provided.

(b) If there is no surviving spouse or eligible dependent children, then the member’s beneficiary, if any, A beneficiary shall be entitled only to a refund of the contributions of the deceased member of the plan.

1. The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan and/or the member’s dependents.

2. Distribution election and distribution of a refund of contributions shall be made within 90 days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

3. Any refund of the member's contributions under this act shall be in full satisfaction of any and all claims by any person against the General Pension and Retirement Fund.

Section 11. Section 31 of chapter 99-474, Laws of Florida, is created to read:

Section 31. Election of members to participate in other defined benefit pension plans.—

(1) On or after October 18, 1999, if a member of this plan elects to participate in another of the city's defined benefit pension plans, contributions to this plan required under sections 32 and 33 shall cease. If such an election is made, nonvested members of the plan shall receive a refund of their contributions. Vested members may receive a refund of contributions in lieu of a future pension benefit or they may leave their contributions in the plan with their pension commencing as otherwise provided for herein. In such case, the pension benefit shall be calculated at the time contributions cease and further benefits shall not accrue.

(2) Members of the plan as described in subsection (1), who remain in the employment of the city, and who once again become eligible to participate in this plan, shall be entitled to the benefits provided in section 13.

Section 12. Section 37 of chapter 99-474, Laws of Florida, is created to read:

Section 37. Additional benefits.—The city may by ordinance increase the benefits of the members of the plan.

Section 13. All laws or parts of laws in conflict herewith are hereby repealed.

Section 14. 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.