

House Bill No. 1855

An act relating to the City of Tampa, Hillsborough County; amending s. 4 of chapter 23559, Laws of Florida, 1945, as amended; revising the definitions of “salaries or wages” and “military service time” and adding the definitions of “actuarial equivalent,” “plan year,” and “legal heirs”; amending s. 17 of chapter 23559, Laws of Florida, 1945, as amended; providing for 8-year vesting and eligibility in the Deferred Retirement Option Program for elective officers; creating ss. 23, 24, 25, and 26 of chapter 23559, Laws of Florida, 1945, as amended; providing for the sole purpose of the General Employees’ Retirement Plan, limitations on amounts of benefits, required distributions, and direct rollovers; repealing all laws in conflict herewith; providing an effective date and providing for retroactive operation of certain provisions.

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

Section 1. Subsections (A) and (H) of section 4 of chapter 23559, Laws of Florida, 1945, as amended, are amended, and new subsections (P), (Q), and (R) are added, to read:

Section 4. Definitions.

(A) Salaries or Wages. Salaries or wages for the purpose of this act shall be the base amounts earned by the Employee, plus employee including regular longevity bonuses, overtime and shift premiums, but exclusive of other premiums, allowances or special payments or any casual nonrecurring or unpredictable bonuses. In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, for Plan Years beginning on or after January 1, 1996, the annual Salaries or Wages of each Employee taken into account under the Plan shall not exceed the annual compensation limit provided for in the Omnibus Budget Reconciliation Act of 1993 (the “OBRA 1993 Annual Compensation Limit”). The OBRA 1993 Annual Compensation Limit is \$150,000, as adjusted by the Commissioner of the Internal Revenue Service for increases in the cost-of-living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended (the “Code”). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Salaries or Wages are determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA 1993 Annual Compensation Limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. For Plan Years beginning on or after January 1, 1996, any reference in this Plan to the limitation under Section 401(a)(17) of the Code shall mean the OBRA 1993 Annual Compensation Limit set forth in this provision. The limitation on Salaries or Wages for an “eligible Employee” shall not be less than the amount which was allowed to be taken into account hereunder as in effect

on July 1, 1993. "Eligible Employee" is an individual who was a participant in the Plan before the first Plan Year beginning after December 31, 1995.

(H) Military Service Time. In computing Service allowance for retirement, creditable Service shall, at the option of the Employee, include any service which interrupted employment employment with the Employer, not to exceed a period of 3 years, in any of the armed services of the United States during time of war, upon condition that within 90 days from the date of reinstatement of such Employee now or hereafter serving in the armed forces, or within 90 days from the effective date of this act for those Employees already reinstated, such Employee shall exercise such option by filing written notice thereof with the Board of Trustees and, if a Division A employee, shall within the 12 ensuing months pay into the retirement fund an amount equal to the aggregate contributions such Employee would have made had such Employee not served in the armed forces, based upon the Salary or Wages being earned at the time of entering the armed services, and if any such Employee shall fail to exercise such option within the time and in the manner hereinabove prescribed, such period of military service shall not thereafter be allowed as creditable Service, but shall not be deemed a break in such Employee's Continuous Service eligibility period. Notwithstanding the foregoing, an Employee shall be credited with service for purposes of vesting and benefit accrual under the Plan for his or her service in the uniformed service (as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (the "USERR Act") upon being granted leave by the Employer for such uniformed service and termination from employment as an Employee with the Employer, provided that the Employee must return to his or her employment as an Employee with the Employer within the time periods prescribed by the USERR Act; and the Employee complies with the Employee contribution requirements prescribed by the USERR Act. The maximum service credit for uniformed service shall be 5 years or such other time period as may be prescribed by the USERR Act.

(P) Actuarial Equivalent. The Actuarial Equivalent of an Employee's Accrued Pension shall be determined by basing mortality on the 1983 Group Annuity Mortality Table for Males with female ages set back 6 years and post-disablement mortality upon 80 percent of the 1965 Railroad Board Ultimate Mortality Table, or such other mortality tables as are in compliance with the Code.

(Q) Plan Year. Plan Year shall mean the period commencing on the first day of October of each year and ending on the last day of September of the following year.

(R) Legal Heirs. An Employee's Legal Heirs shall mean an Employee's designated beneficiary, or, in the absence of such a designation or if there is no surviving designated beneficiary, the legal heirs of the Employee as determined by applicable law. For the purposes of this Act, the terms "Legal Heirs" and "Designated Beneficiary" shall have the same meaning and shall be used interchangeably.

Section 2. Subsection (A) of section 17 of chapter 23559, Laws of Florida, 1945, as amended, is amended to read:

Section 17. Officers.

(A) Elective officers, department heads and appointive officers of the City shall participate in the pension or retirement ~~Plan~~ plan. Such officers, department heads and appointive officers shall have the same status for pension purposes as permanent ~~Employees~~ employees; provided, however, the minimum number of years necessary for an elective officer of the City to have a vested pension under the Plan and be eligible for the Deferred Retirement Option Program set forth in section 22 of this Plan shall be 8 continuous years of Service; and provided further that any elective officer, department head, or appointive officer of the City any such person who (1) shall have participated in the pension or retirement ~~Plan~~ plan and acquired a vested right to a deferred proportionate pension thereunder, (2) shall have at the end of any term in office (a) unsuccessfully sought election, (b) not been appointed, or (c) not declined appointment to any office of the City, (3) shall have left his contributions in the Fund if he was a member of Division A and had contributed to the Fund, and (4) is or shall have been subsequently elected or appointed to any office or employed in any position in the City, shall resume his participation in the plan; and the period during which such person shall have been out of office shall not constitute a break in Service service, but no creditable ~~Service service~~ shall be allowed for such period. Pensions under this section shall be calculated in the same manner as any pensions of ~~Employees~~ employees receiving retirement benefits who were subsequently reemployed (section 16).

Section 3. Sections 23, 24, 25, and 26 are added to chapter 23559, Laws of Florida, 1945, as amended, to read:

Section 23. Sole Purpose. This Plan is created for the sole purpose of providing benefits to the Employees of the City. Except as otherwise permitted by law, in no event shall any part of the principal or income of the Fund be paid to or reinvested in the City or be used for or diverted to any purpose whatsoever other than for the exclusive benefit of the Employees participating in the Plan and their beneficiaries.

Section 24. Limitations On Amounts Of Benefits.

(A) Benefits for an Employee under this Plan, when expressed as a benefit payable annually in the form of a straight life annuity without regard to the death benefit or any other ancillary benefit, shall not at any time within the limitation year exceed \$90,000.

(B)1. The \$90,000 limitation set forth in subsection (A) shall be actuarially reduced in accordance with regulations prescribed by the Secretary of the Treasury for any retirement benefit that may begin before an Employee attains age 62, by adjusting such benefit so that it is equivalent to such a benefit beginning at age 62. The reduction shall not reduce the \$90,000 limitation set forth in subsection (A) to less than (a) \$75,000 if the benefit begins at or after age 55, or (b) if the benefit begins before age 55, the equivalent of the \$75,000 limitation for age 55.

2. If any retirement benefit begins after the Employee attains age 65, the \$90,000 limitation set forth in subsection (A) shall be adjusted (based upon

an interest rate assumption of 5 percent) in accordance with regulations prescribed by the Secretary of the Treasury, by adjusting such benefit so that it is equivalent to such benefit beginning at age 65.

(C) The benefit payable with respect to an Employee shall be deemed not to exceed the limitations set forth in subsections (A) and (B) if the benefit payable with respect to such Employee under this Plan, and under all other defined benefit pension plans to which the City contributes, does not exceed \$10,000 for the applicable Plan Year and for any Plan Year and the City has not at any time maintained a defined contribution plan in which the Employee participated.

(D) In accordance with Section 415(b)(5) of the Code, the \$90,000 limitation in subsection (A), and the limitation in subsection (C), shall be multiplied by a fraction (not in excess of 1), the numerator of which is the number of the Employee's years of Service in the Plan (in the case of the \$90,000 limitation set forth in subsection (A)) or the number of the Employee's years of Service (in the case of the limitation set forth in subsection (C)) and the denominator of which, in either case, is 10.

(E) As of January 1 of each calendar year, the \$90,000 limitation set forth in subsection (A) shall be adjusted as and if permitted by the Secretary of the Treasury, and any such adjusted limitation shall become effective as the maximum dollar limitation under the Plan for that calendar year. The maximum dollar limitation for a calendar year, as so adjusted, shall apply to limitation years ending with or within such calendar year.

(F)1. In the event that any Employee participates in both a defined benefit plan and a defined contribution plan maintained by the City, then the sum of the Defined Benefit Plan Fraction (as defined in Section 415(e) of the Code) and the Defined Contribution Plan Fraction (as defined in Section 415(e) of the Code) for any limitation year shall not exceed 1.0.

2. In the event that the sum of the Defined Benefit Plan Fraction and the Defined Contribution Plan Fraction exceeds 1.0, then the Board of Trustees shall take such actions, applied in a uniform and nondiscriminatory manner, as will keep the benefits and annual additions thereto for such Employees from exceeding these limits. Adjustments shall be made to this Plan before any adjustments shall be required to any other plans.

Section 25. Required Distributions.

(A) Any benefit paid to an Employee shall commence not later than the last to occur of:

1. April 1 of the year following the calendar year in which the Employee retires; or

2. April 1 of the year immediately following the calendar year in which the Employee reaches age 70 $\frac{1}{2}$.

(B) In the case of a benefit payable by reason of an Employee's retirement or other termination of employment, in no event shall payment extend

beyond the life or life expectancy of the Employee or the joint lives or life expectancies of the Employee and the Employee's designated beneficiary. In the case of an Employee who is receiving his or her pension benefit as of the date of his or her death, the survivor portion of the Employee's pension benefit shall be paid at least as rapidly as under the method being used prior to the Employee's death.

(C) Notwithstanding anything contained herein to the contrary, payments under the Plan shall satisfy the incidental death benefit requirements and all other applicable provisions of Section 401(a)(9) of the Code, the regulations issued thereunder (including Section 1.401(a)(9)-2 of the proposed Treasury regulations), and such other rules thereunder as may be prescribed by the Secretary of the Treasury.

Section 26. Direct Rollovers.

(A) This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's (as defined below) election under this section, a distributee may elect, at the time and in the manner prescribed by the Commissioner of the Internal Revenue Service, to have any portion of an eligible rollover distribution (as defined below) paid directly to an eligible retirement plan (as defined below) specified by the distributee in a direct rollover (as defined below).

(B) For purposes of this section, the following terms shall have the following meanings:

1. An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, 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 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; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code, and 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).

2. An "eligible retirement plan" is an individual retirement account described in Section 408(a) of the 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.

3. A "distributee" includes an Employee or former employee. 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 Code, are distributees with regard to the interest of the spouse or former spouse.

4. A “direct rollover” is a payment by the Plan to the eligible retirement plan specified by the distributee.

Section 4. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. This act shall take effect upon becoming a law and sections 1 and 3 shall operate retroactively to January 1, 1997.

Approved by the Governor June 14, 2000.

Filed in Office Secretary of State June 14, 2000.