

House Bill No. 759

An act relating to the City of Orlando, Orange County; amending chapter 22414 (1943), Laws of Florida, relating to the pension fund of the Orlando Police Department; eliminating the earned income offset; providing for changes necessary to obtain tax qualification and compliance with state statutory minimums; providing an effective date.

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

Section 1. Section 8 of chapter 22414 (1943), Laws of Florida, as amended, is amended to read:

Section 8. Disability pensions in general.—

(1) For the purposes of both sections 9 and 10 of this retirement plan, pertaining to disability pensions, the term “permanently and totally disabled” shall be construed to mean and include the loss of one or more limbs, loss of sight in one or both eyes, loss of hearing in one or both ears, and any other condition which renders the member unfit to perform the required duties of the member’s rank held at the time of impairment.

(2) No member of the police department shall be entitled to a disability pension, whether in line of duty or not in line of duty, because of or due to the aggravation of a specific injury, impairment, or other medical condition preexisting at the time of employment with the police department, provided that such preexisting condition and its relationship to a later injury, impairment, or other medical condition be established by competent substantial evidence. Nothing herein shall be construed to preclude a disability pension to a member who, after employment with the police department, suffers an injury, impairment, or other medical condition different from some other injury, impairment, or other medical condition existing at or prior to said employment.

(3) Notwithstanding any other provision of this retirement plan, a disability pension may be denied by the board of trustees if it is determined that:

(a) The applicant is not totally disabled to do all of the functions which can be performed by members of his or her same rank;

(b) The applicant is able to do some of the functions which can be performed by members of his or her same rank; and

(c) The Chief of the Police Department is willing to permit the applicant to remain on the Orlando Police Department, performing limited duty, with no reduction in pay or benefits.

(4) If in any month a disability retiree receives both workers’ compensation payments and disability pension benefits, a dollar-for-dollar offset will

be made to disability pension payments otherwise due for any workers' compensation payments received; provided, however, the offset will not operate to reduce the total of workers' compensation payments and pension plan payments below 100 percent of the pensionable salary earned by the retiree on his or her last day of work for the Orlando Police Department; and provided further that no offset shall be made if the member is receiving benefits under Title 42 USCA Public Health and Welfare (Social Security) guidelines as disabled. For purposes of offset calculation when lump sum workers' compensation settlements are paid, the lump sum will be amortized over the period of allowable benefits, not to exceed 10 years.

~~(5) If during any calendar year a disability retiree has earned income, there will be a \$1 offset during the succeeding calendar year for each \$3 of earned income; provided, however, that benefits payable under this retirement plan will never be reduced below the amount the disability retiree would have been eligible to receive on the date of retirement, based on his or her years of credited service and average monthly salary at time of disability. "Earned income" will include only such income treated as gross income defined as such by the IRS for federal income tax purposes to the extent that such income is wages or compensation for services or income from a business owned or operated by the disability retiree.~~

~~(6) If the disability retiree does receive earned income in any calendar year, he or she shall make a report to the board of trustees, on or before the 15th day of each April of the following year, of any and all earned income received during the preceding calendar year. If the retiree files a false report or fails to file the required report, the board of trustees shall conduct a hearing, upon notice to the retiree, and may order the pension temporarily suspended or reduced to the amount the retiree would be entitled to receive under section 6 of this retirement plan. Disability retirees will also be required to provide the board of trustees with relevant tax returns within 30 days of filing. If these returns are not filed, the pension payable to the retiree shall be temporarily withheld until the return is filed.~~

Section 2. Section 27 is added to chapter 22414 (1943), Laws of Florida, as amended, to read:

Section 27. Tax qualification and statutory minimums.—

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

(2) The legislative body of the City of Orlando is authorized to amend the pension plan to the limited extent necessary to comply with the minimum standards and benefits levels required by chapter 185, Florida Statutes, in order to allow the plan to receive funds from the Police and Firefighters' Premium Tax Trust Fund, but must obtain prior agreement of the members and their collective bargaining agent, if any, should such required amendments change any plan benefits.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor April 16, 2002.

Filed in Office Secretary of State April 16, 2002.