

## House Bill No. 1033

An act relating to the Police Pension Fund of the City of West Palm Beach, Palm Beach County; amending chapter 24981 (1947), Laws of Florida, as amended; revising the definition of “retirement”; providing applicability of certain investment policy guidelines; providing statutory limitations on investments in foreign investments; providing additional standards for the performance of duties by the Board of Trustees relating to investments; deleting provisions relating to investments and purchases of securities, uninvested cash, and minimum investment standards; providing for transfer to the fund of certain members’ leave payments remaining after required contributions to health savings accounts; providing for reemployment after retirement by a public or private employer, reemployment after retirement inside or outside the police department, reemployment of terminated vested persons, and reemployment of DROP participants; providing an effective date.

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

Section 1. Paragraph (o) of subsection (2) and subsections (21) and (31) of section 16 of chapter 24981 (1947), Laws of Florida, as amended by chapters 2002-359 and 2005-312, Laws of Florida, are amended, and subsection (36) is added to that section, to read:

Section 16. West Palm Beach Police Pension Fund.—

(2) Definitions.—The following words or phrases, as used in this act, shall have the following meanings, unless a different meaning is clearly indicated by the context:

(o) “Retirement” means a member’s withdrawal from Police Department City employment as a police officer with a pension payable from the Fund.

(21) Investments.—

(a) The Board shall have the power and authority to invest and reinvest the moneys of the Fund and to hold, purchase, sell, assign, transfer, and dispose of any securities and investments held in the Fund, including the power and authority to employ counseling or investment management services. The aim of the investment policies shall be to preserve the integrity and security of Fund principal, to maintain a balanced investment portfolio, to maintain and enhance the value of the Fund principal, and to secure the maximum total return on investments that is consonant with safety of principal, provided that such investments and reinvestments shall be limited only by the investments permitted by the investment policy guidelines adopted by the Board in accordance with Florida law. Notwithstanding the foregoing, investments in foreign investments are limited in accordance with section 185.06(1)(b)4., Florida Statutes. The Board members must discharge these duties with respect to the Plan solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the Plan;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

3. By diversifying the investments of the Plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, to the following:

~~1. Direct obligations of the United States Government or any agency thereof and any other evidences of indebtedness which are fully guaranteed by the United States Government or any agency thereof for the payments of principal and interest.~~

~~2. Direct obligations of the State of Florida.~~

~~3. Debt securities, preferred and common stocks and mutual fund shares subject to limitations set forth in this section.~~

~~4. Savings and loans associations, to the extent that deposits are guaranteed by the United States Government or any agency thereof.~~

~~Purchases of securities may include bonds or other evidence of indebtedness, preferred stocks, and common stocks. Operations shall be conducted on the basis of a balanced portfolio, the total thereof invested in preferred stocks shall not aggregate more than 5 percent, and the total amount thereof invested in common stocks and mutual funds shall not aggregate more than 70 percent of the Fund. Percentages shall be based on market value at the end of each reporting period (September 30). Investment experience producing a market value percent exceeding the stated limit does not arbitrarily mean assets are to be liquidated to satisfy the limit.~~

~~(b) Maximum uninvested cash; minimum investment standards.—No more than 10 percent of the assets of the Fund shall be held in cash or in noninterest-bearing deposits. The following minimum investment standards shall govern the eligibility for the purchase of securities:~~

~~1. All corporate and association securities and mutual funds shall be issued by a corporation or other legal person incorporated or otherwise organized within the United States and domiciled therein except as otherwise permitted by section 185.06, Florida Statutes.~~

~~2. Not more than 10 percent of the total fund principal at market value may be invested in any issuing company, other than United States Government or United States Government agency obligations.~~

~~3. All bonds, stocks, or other evidence of indebtedness shall be issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of~~

~~Columbia, provided that the corporation is listed on any one or more of the recognized national stock exchanges and, with regard to bonds only, holds a rating in one of the four highest classifications by a major rating service. Said bonds and preferred stocks that are convertible into common stocks shall be considered common stocks, and the purchase of same shall be limited by the provisions of subparagraph (a)5.~~

(b)4. Professional counsel.—The Board shall be required to engage the services of professional investment counsel to assist and advise the Trustees in the performance of their duties.

(c) Restricted use of assets.—The assets of the Police Pension Fund shall be used only for the payment of benefits and other disbursements authorized by this act and shall be used for no other purpose.

(d) Performance evaluation and manager selection.—At least once every 3 years, the Board of Trustees shall retain an independent consultant professionally qualified to evaluate the performance of its professional money manager or investment counsel. The independent consultant shall make recommendations to the Board of Trustees regarding the selection of money managers for the next investment term. These recommendations shall be considered by the Board of Trustees at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in a newspaper of general circulation in the municipality at least 10 days prior to the date of the hearing.

(e) Administrative expenses.—The administrative expenses of the Fund shall be paid by the Fund.

(31)(a) Rollovers from qualified plans.—A member may roll over all or a part of his or her interest in another qualified plan to the Fund, provided all of the following requirements are met:

1. Some or all of the amount distributed from the other plan is rolled over to this plan no later than the 60th day after distribution was made from the Plan or, if distributions are made in installments, no later than the 60th day after the last distribution was made.

2. The amount rolled over to this Fund does not include any amount contributed by the member to the Plan on a posttax basis.

3. The rollover is made in cash.

4. The member certifies that the distribution is eligible for a rollover.

5. Any amount which the Trustees accept as a rollover to this Fund shall, along with any earnings allocated to them, be fully vested at all times.

A rollover may also be made to this Plan from an individual retirement account qualified under s. 408 of the Internal Revenue Code when the individual retirement account was merely used as a conduit for funds from another qualified plan and the rollover is made in accordance with the rules provided in subparagraphs 1-5. Amounts rolled over may be segregated

from other Fund assets. The trustees shall separately account for gains, losses, and administrative expenses of these rollovers as provided for in subsections (11) and (13). In addition, the Fund may accept the direct transfer of a member's benefits from another qualified retirement plan or an Internal Revenue Code section 457 plan. The Fund shall account for direct transfers in the same manner as a rollover and shall obtain certification from the member that the amounts are eligible for a rollover or direct transfer to this Fund.

(b) Transfer of accumulated leave.—

1. Members who are eligible to receive a lump-sum payment for accumulated sick leave, accumulated vacation leave, or any other accumulated leave payable upon separation and who have funds remaining after the contributions to the health savings account as required by the collective bargaining agreement shall have the remaining leave payment transferred to the Fund up to the amount permitted by law. Any additional amounts shall be paid directly to the member. Members on whose behalf leave has been transferred shall maintain the entire amount of the transferred leave balance in the DROP or Share Account.

2. If a member on whose behalf the City makes a transferred leave balance to the Plan dies after retirement or other separation, then any person who would have received a death benefit had the member died in service immediately prior to the date of retirement or other separation shall be entitled to receive an amount equal to the transferred leave balance in a lump sum. In the case of a surviving spouse or former spouse, an election may be made to transfer the leave balance to an eligible retirement plan in lieu of the lump sum payment. Failure to make such an election by the surviving spouse or former spouse within 60 days after the member's death shall be deemed an election to receive the lump sum payment.

3. The Board, by rule, shall prescribe the method for implementing the provisions of this paragraph.

4. Amounts transferred under this section shall remain invested in the Fund for a period of not less than 1 year.

(36) Reemployment after retirement.—

(a) Reemployment by public or private employer.—Any retiree who is retired under this Plan, except for disability retirement as previously provided for, may be reemployed by any public or private employer, except the City, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this Plan. Reemployment by the City on or after August 1, 2008, shall be subject to the limitations set forth in this section.

(b) Reemployment after normal retirement outside Police Department.—Any retiree who is retired under normal retirement pursuant to this Plan and who is reemployed by the City after that retirement shall, upon being reemployed, continue receipt of benefits, provided the retiree is not hired into the Police Department. Upon reemployment, the retiree is eligible to

participate in the plan offered to new employees of that department, and the retiree shall be deemed a new employee subject to any vesting and contribution requirements of that plan. The benefit paid under this Plan shall not be changed in any way.

(c) Reemployment after normal retirement in Police Department.—Any retiree who is retired after normal retirement pursuant to this Plan shall not be reemployed by the Police Department as a police officer or in any position that supervises police officers. The pension of a retiree who is reemployed by the Police Department as a police officer or in any position that supervises police officers shall stop until the member terminates employment. However, a retiree who is reemployed by the Police Department neither as a police officer nor in any position that supervises police officers is eligible to participate in the plan offered to new employees of that employee classification, and the retiree shall be deemed a new employee subject to any vesting and contribution requirements of that plan. The benefit paid under this Plan shall not be changed in any way.

(d) Reemployment of terminated vested persons.—Reemployed terminated vested persons shall not be subject to the provisions of this section until such time as they begin to actually receive benefits but shall be subject to paragraph (9)(c). Upon receipt of benefits, terminated vested persons shall be treated as normal retirees for purposes of applying the provisions of this section.

(e) DROP participants.—Members or retirees who were in the deferred retirement option plan shall have the options provided for in this section for reemployment after termination of employment as if the retiree were a retiree under normal retirement.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 10, 2008.

Filed in Office Secretary of State June 10, 2008.