

Council Substitute for House Bill No. 1515

An act relating to the City of Orlando Firefighter Pension Fund, Orange County; amending chapter 23444, Laws of Florida, 1945, as amended; providing definitions of “legal guardian” and “guardians of said issue”; clarifying the amount of certain disability pension; providing that surviving spouses and other beneficiaries are entitled to cost of living increases upon the death of eligible firefighters; approving ordinances enacted by the City of Orlando concerning the firefighter pension plan; providing that the act is contingent upon a collective bargaining agreement; providing retroactive effect; providing effective dates.

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

Section 1. Section 2 of chapter 23444, Laws of Florida, 1945, as amended by chapters 73-573 and 2000-448, Laws of Florida, and by City of Orlando Ordinance 33874, enacted June 18, 2001, is amended to read:

Section 2. Employees included.

Members of said Fire Department shall be construed as including all officers and firefighters regularly employed in said department, and whose employment shall be regular and continuous and not of a temporary character, provided, however, the secretaries, stenographers and switchboard operators shall not be covered by the provisions of this Act. For the purpose of this Act the term “widow” shall include widower; the term “wife” shall include “husband”; the term “mother” shall include “father”; reference to the masculine pronoun shall include the feminine and vice versa; the term “issue” shall include a member’s natural and adopted children as well as children in gestation; and the terms “legal guardian” or “guardians of said issue” shall include a court-appointed guardian of the property of said issue or a trustee of a trust of which said issue is a beneficiary. Further provided that members who are DROP participants will no longer be participants in this fund, nor eligible for any benefits hereunder.

Section 2. Section 9 of chapter 23444, Laws of Florida, 1945, as amended by City of Orlando Ordinance 0801141004, enacted January 1, 2008, is amended to read:

Section 9. Permanent disability pension; in line of duty.

Any active member of the fire department who shall become permanently and totally disabled, if the disability is directly caused by and attributable to the performance of duty as a member of the department, shall be entitled to a pension of a monthly sum of 80 percent of the member’s average monthly salary; provided, however, a member who has completed 40 years of credited service shall be entitled to receive an additional 2 percent over the 80 percent for each year of credited service in excess of 40 years of credited service but not to exceed 100 percent ~~money equivalent to that sum~~

of money which said member, whether or not properly qualified, would have been entitled to elect as a monthly pension for twenty-five (25) years of service under amended Section 12 of this act. The phrase "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. Upon the death of the member on said disability pension provided in this section, benefits shall be paid as follows:

(1) If a member has not elected and started receipt of the Section 34(1)(a) life with ten (10) years certain form of payment, or the Section 34(1)(b) life only form of payment, or the Section 34(1)(c) joint pensioner form of payment, benefits shall be paid pursuant to Section 14, "Benefits Payable Upon Death of Member", to the surviving spouse and issues under the age of eighteen (18), or dependent parents, and Section 35, "10 Year Certain Guarantee", if applicable.

(2) If a member has elected and started receipt of the Section 34(1)(a) life with ten (10) years certain form of payment and the member has not received 120 monthly payments, then benefits otherwise payable to the member shall be paid pursuant to Section 32, "Beneficiaries", for the remainder of the 120 monthly payments beginning on the first day of the month immediately following the member's death regardless of the age of the deceased member. If the firefighter makes this election, no benefits shall be paid pursuant to Section 14(5)(b) or Section 14(5)(d) to the surviving spouse, issue in being under the age of eighteen (18), or dependent parents. Provided however, the firefighter may designate as beneficiaries the surviving spouse, issue in being under the age of eighteen (18), or dependent parents to receive the remainder of the 120 monthly payments.

(3) If a member has elected and started receipt of the Section 34(1)(b) life only form of payment, no further payments shall be made upon the death of the member.

(4) If a member has elected and started receipt of the Section 34(1)(c) joint pensioner form of payment, benefits shall be paid as provided therein.

Notwithstanding anything that may be to the contrary in this act, at age forty-seven (47), a member then receiving benefits under this section may make the election provided in Section 12(1) or Section 12(2) as the case may be and Section 18, all of this act (Laws of Fla. ch. 23444(1945), as amended) in the manner therein specified, provided he is qualified by length of service prior to the disability and provided he makes the election within the thirty-day period after reaching age forty-seven (47). If the election is exercised in favor of the pension, the pension shall be based only on service and salary earned prior to the date of disability. If the election is exercised, all of the member's rights and the rights of the member's surviving spouse and issue, and dependent parents under Section 14 shall cease.

Section 3. Subsection (2) is added to section 19 of chapter 23444, Laws of Florida, 1945, as amended by chapter 2000-448, Laws of Florida, to read:

Section 19. Cost of living increase.

(2) Those persons who are eligible to receive monthly retirement benefits upon the death of a firefighter who was eligible for cost of living increases pursuant to chapter 88-518, chapter 89-459, or chapter 2000-448, Laws of Florida, shall upon the death of the firefighter receive the appropriate percentage of the firefighter's monthly retirement benefit, including the percentage of cost of living increases previously awarded, and shall receive future percentage cost of living increases at the same time the deceased firefighter would have received the cost of living increases but for the death of the firefighter. The cost of living increases percentage previously received by the firefighter and the cost of living increases percentage awarded after the firefighter's death shall be applied to such person's monthly retirement benefit.

Section 4. City of Orlando Ordinance 33723, enacted April 16, 2001, relating to tax qualification of the plan under the Internal Revenue Code, City of Orlando Ordinance 33874, enacted June 18, 2001, and City of Orlando Ordinance 0801141004, enacted January 1, 2008, relating to minimum benefits and minimum standards required by chapter 99-1, Laws of Florida, are hereby approved, ratified, validated, and confirmed, and shall be considered part of chapter 23444, Laws of Florida, 1945, as amended.

Section 5. This act is only an enabling act and is contingent upon contractual agreement through the collective bargaining process between the City of Orlando and the respective certified bargaining agent for firefighters employed by the City of Orlando.

Section 6. This section shall take effect upon becoming a law; section 1 shall take effect July 1, 2008; section 3 shall be effective retroactive to July 1, 1988; sections 2 and 4 shall be effective retroactive to January 1, 2008; and section 5 shall take effect July 1, 2008.

Approved by the Governor June 10, 2008.

Filed in Office Secretary of State June 10, 2008.