CHAPTER 2014-238

House Bill No. 931

An act relating to the City of West Palm Beach, Palm Beach County; amending chapter 24981 (1947), Laws of Florida, as amended; extending the period in which funds received under chapter 175, F.S., shall be used to reduce employee contributions to the West Palm Beach Firefighters Pension Fund; clarifying that such funds are not refundable as employee contributions; authorizing vested members to request refund of contributions in lieu of a benefit; requiring payment of certain benefits to a designated beneficiary; clarifying requirement for certain members to take a lump sum distribution of their entire lump sum accumulated sick leave and vacation leave within a specified time after their termination of employment in certain circumstances; reducing actuarial assumed rate of return; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (3), paragraphs (i) and (j) of subsection (5), subsection (7), paragraph (b) of subsection (21), and paragraph (b) of subsection (22) of section 17 of chapter 24981 (1947), Laws of Florida, as amended, is amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

(3) Sources of revenue.—The financing of the Fund shall consist of the following sources of revenue:

(a) Taxes of insurance companies.—The moneys returned to the City as provided by chapter 175, Florida Statutes, shall be used to fund the share account benefit described in paragraph (5)(j). The chapter 175 funds received in calendar years 2012~~,~~ ~~and~~ 2013, and 2014 shall be utilized to reduce the employee contributions to 13.1 percent. No amount of the chapter 175 funds is to be considered employee contributions for purposes of a refund of contributions as provided for in paragraph (5)(i). Effective beginning calendar year 2015 ~~2014~~, the chapter 175 funds shall again be used in full to fund the share account benefits provided for in paragraph (5)(j). The City shall not opt out of participation in chapter 175, Florida Statutes, or any similar statutory enactment unless exigent circumstances exist, such as the bankruptcy of the City or changes or amendments to the statute regarding extra benefits by the Legislature. If any statutory changes are made by the Legislature, the City and the Board may renegotiate the impact of such changes, if necessary.

(b) Member contributions.—Effective May 13, 2012, the member shall contribute 25 percent of his or her salary to the Fund. The full amount of the chapter 175 funds received in calendar years 2012~~,~~ ~~and~~ 2013, and 2014 shall be used to reduce the employee contributions to 13.1 percent. No amount of the chapter 175 funds is to be considered employee contributions for purposes of a refund of contributions as provided for in paragraph (5)(i). Effective October 1, 2014 ~~2013~~, the employee contributions shall be 13.1 percent, which shall be deducted each pay period from the salary of each member in the Department, and the chapter 175 funds received in calendar year 2015 ~~2014~~ and thereafter shall once again be allocated to the share accounts. If the chapter 175 funds are insufficient to reduce the member's contributions to 13.1 percent, the city shall make up the difference. All amounts of member contributions that are deducted shall be immediately paid over to the Pension Fund. For contributions made on or after May 13, 2012, any contribution amount over 11.1 percent is to be used to purchase eligibility in the postretirement health insurance, excluding the amounts of chapter 175 funds used to offset the member contribution rate.

(5) Service pension.—

(i) Refund of contributions.—In the event a member leaves the employ of the Department or dies with less than 10 years of credited service, and no service pension, disability pension, or beneficiary benefit is payable, the contributions made by him or her to the Fund shall be refunded, without interest (less any disability payments paid to the member), to the member or, in the event of death, to the beneficiary or to the member's estate. In the event a member leaves the employ of the Department with more than 10 years of service, the member may request a refund of contributions without interest instead of receiving any future benefits, including the share account benefit, that may be payable under the plan.

(j) Chapter 175, Florida Statutes, share accounts.—

1. Individual member accounts.—A separate account shall be established and maintained in each member's name effective on or after October 1, 1988.

2. Share account funding.—

a. Each individual member account shall be credited with a pro rata share of all of the moneys received from chapter 175, Florida Statutes, tax revenues in June 1988 and thereafter. For the chapter 175 funds received in calendar years 2012~~,~~ ~~and~~ 2013, and 2014, the full amount of the chapter 175 funds shall be used to reduce the employee contributions to 13.1 percent as provided for in subsection (3)(a). Effective October 1, 2014 ~~2013~~, the employee contributions shall be 13.1 percent and the chapter 175 money received in calendar year 2015 ~~2014~~ and thereafter shall be allocated to the share accounts.

b. In addition, any forfeitures as provided in subparagraph 5. shall be credited to the individual member accounts in accordance with the formula set forth in subparagraph 3.

3. Annual allocation of accounts.—

a. Moneys shall be credited to each individual member account in an amount directly proportionate to the number of pay periods for which the member was paid compared to the total number of pay periods for which all members were paid, counting the pay periods in the calendar year preceding the date for which chapter 175, Florida Statutes, tax revenues were received. Share account allocations made on and after October 1, 2004, shall be made to each individual share account.

b. At the end of each fiscal quarter, each individual account shall be adjusted to reflect the earnings or losses resulting from investment, as well as reflecting costs, fees, and expenses of administration.

c. Vested participants have the option to select one of three methods to credit investment earnings to their account. The method may be changed each year effective October 1; however, the method must be elected prior to October 1. The methods are:

(I) The investment earnings or losses credited to the individual member accounts shall be in the same percentage as are earned or lost by the total investment earnings or losses of the Fund as a whole, unless the Board dedicates a separate investment portfolio for chapter 175, Florida Statutes, share accounts, in which case the investment earnings or losses shall be measured by the investment earnings or losses of the separate investment portfolio;

(II) A fixed annual rate of 8.25 percent for members who reached normal retirement age on or before May 13, 2012, or members that have a calculated BackDROP date of October 1, 2011, or earlier. Effective May 13, 2012, the fixed rate is 4 percent for members who retire on or after May 13, 2012; or

(III) A percentage of the share account assets to be credited with earnings or losses in accordance with sub-sub-subparagraph (I) and a corresponding percentage of the share account assets credited in accordance with sub-sub-subparagraph (II). The combined total percentage invested under this sub-sub-subparagraph must equal 100 percent.

d. Costs, fees, and expenses of administration shall be debited from the individual member accounts on a proportionate basis, taking the cost, fees, and expenses of administration of the Fund as a whole, multiplied by a fraction, the numerator of which is the total assets in all individual member accounts and the denominator of which is the total assets of the Fund as a whole. The proportionate share of the costs, fees, and expenses shall be debited from each individual member account on a pro rata basis in the same manner as chapter 175, Florida Statutes, tax revenues are credited to each individual member account (i.e., based on pay periods).

4. Eligibility for benefits.—Any member who terminates employment with the City, upon the member's filing an application with the Board, shall be entitled to 100 percent of the value of his or her individual member account, provided the member meets any of the following criteria:

a. The member is eligible to receive, and is receiving, a service pension as provided in this subsection;

b. The member has 5 or more years of credited service and is eligible to receive, and is receiving, either:

(I) A nonduty disability pension as provided in paragraph (6)(a); or

(II) Beneficiary benefits for nonduty death as provided in paragraph (7)(a); or

c. The member has any credited service and is eligible to receive, and is receiving, either:

(I) A duty disability pension as provided in paragraph (6)(c); or

(II) Beneficiary benefits for death in the line of duty as provided in paragraph (7)(b).

5. Forfeitures.—Any member who has less than 10 years of credited service and who is not eligible for payment of benefits after termination of employment with the City shall forfeit his or her individual member account. The amounts credited to said individual member account shall be redistributed to the other individual member accounts in the same manner as chapter 175, Florida Statutes, tax revenues are credited (i.e., based on pay periods). However, the assets shall first be used to ensure that the former member's refund of contributions has not actuarially adversely impacted the payment for the extra benefits. If there has been an adverse impact, the shortfall shall be made up first before the amounts are reallocated to active members.

6. Payment of benefits.—The normal form of benefit payment shall be a lump sum payment of the entire balance of the individual member account. Effective on or after May 13, 2012, members must take a lump sum distribution of their entire share account balance within 6 months after their termination of employment. For members who reached normal retirement age on or before May 13, 2012, or who had a calculated BackDROP date of October 1, 2011, or earlier, the member may leave his or her money in the account until the latest day under subsection (18), choose a lump sum distribution; or, upon the written election of the member, upon a form prescribed by the Board, payment may be made either by:

a. Installments.—The account balance shall be paid out to the member in three equal payments paid over 3 years, the first payment to be made upon approval of the Board; or

b. Annuity.—The account balance shall be paid out in monthly installments over the lifetime of the member or until the entire balance is exhausted. The monthly amount paid shall be determined by the Fund's actuary in accordance with selections made by the member in a form provided by the Board.

7. Death of a member.—If a member dies and is eligible for benefits from the individual member account, the entire balance of the individual member account shall be paid in a lump sum to the beneficiaries designated in accordance with paragraph (h). If a member fails to designate a beneficiary or, if the beneficiary predeceases the member, the entire balance shall be paid in a lump sum in the following order:

a. To the spouse;

b. If there is no spouse or the spouse is not alive, to the member's surviving child or children on a pro rata basis;

c. If there are no children or no child is alive, to the member's parent or parents; or

d. If no parent is alive, to the estate of the member.

(7) Beneficiary benefits.—

(a) Death while in service; 5 years or more (nonduty).—In the event a member with 5 or more years of service credit dies while in the employ of the Department, and the Board finds his or her death to have occurred as the result of causes arising outside the performance of his or her duties as a firefighter in the employ of the City, the following applicable pensions shall be paid:

1. Surviving spouse's benefits.—The surviving spouse shall receive a pension equal to two-thirds of the pension the member would otherwise have been entitled to receive under paragraph (5)(a), as if the member had retired the day preceding the date of his or her death, notwithstanding that the member might not have met the age and service requirements for retirement as specified in subsection (5). Upon the surviving spouse's death, the pension shall terminate.

2. Benefits for children, surviving spouse, etc.—In the event the deceased member does not leave a surviving spouse, or if the surviving spouse shall die, and the member leaves an unmarried child or children under age 18, each such child shall receive a pension of an equal share of the pension to which said member's surviving spouse was or would have been entitled. Upon any such child's adoption, marriage, death, or attainment of age 18, the child's pension shall terminate and said child's pension shall be apportioned to the deceased member's remaining eligible children under age 18.

3. Benefits for dependent parents.—In the event a member dies and does not leave a surviving spouse or children eligible to receive a pension provided for in subparagraphs 1. and 2., and the member leaves a parent or parents whom the Board finds to have been dependent upon the member for 50 percent or more of their financial support, each such parent shall receive a pension of an equal share of the pension to which the member's surviving spouse would have been entitled. Upon any such parent's remarriage or death, the parent's pension shall terminate.

4. Estate.—In the event a member dies and does not leave a surviving spouse, children, or parents eligible to receive a pension provided for in subparagraph 1., subparagraph 2., or subparagraph 3., then the benefits remaining, if any, shall be paid to <u>the member's designated beneficiary. If there is no designated beneficiary, any remaining benefits shall be paid to</u> the member's estate.

(b) Death in the line of duty.—In the event a member dies while in the employ of the Department, and the Board finds his or her death to be the natural and proximate result of causes arising out of and in the actual performance of duty as a firefighter in the employ of the City, the following applicable pensions shall be paid:

1. Surviving spouse's benefits.—The surviving spouse shall receive a monthly pension equal to the greater of:

a. Sixty-six and two-thirds of the member's highest 12 months' salary or top step firefighter pay, whichever is greater; or

b. The surviving spouse's share of the member's accrued benefit. Upon the surviving spouse's death, the pension shall terminate.

2. Benefits for children, surviving spouse, etc.—In the event the deceased member does not leave a surviving spouse, or if the surviving spouse shall die, and the member leaves an unmarried child or children under age 18, each such child shall receive a pension of an equal share of the pension to which the member's surviving spouse was or would have been entitled. Upon any such child's adoption, marriage, death, or attainment of age 18, the child's pension shall terminate and said child's pension shall be apportioned to the deceased member's remaining eligible children under age 18.

3. Benefits for dependent parents.—In the event a member dies and does not leave a surviving spouse or children eligible to receive a pension provided for in subparagraphs 1. and 2., and the member leaves a parent or parents whom the Board finds to have been dependent upon the member for 50 percent or more of their financial support, each such parent shall receive a pension of an equal share of the pension to which said member's surviving spouse would have been entitled. Upon any such parent's remarriage or death, the parent's pension shall terminate.

4. Estate.—In the event a member dies and does not leave a surviving spouse, children, or parents eligible to receive a pension provided for in subparagraph 1., subparagraph 2., or subparagraph 3., then the benefits remaining, if any, shall be paid to <u>the member's designated beneficiary. If there is no designated beneficiary, any remaining benefits shall be paid to</u> the member's estate.

(c) Death after retirement.—Upon the death of a retirant <u>or a vested deferred retirant</u>, the following applicable pensions shall be paid:

1. Surviving spouse's benefits.—The surviving spouse shall receive a pension equal to three-fourths of the retirant's pension at the time of his or her death. Upon the surviving spouse's death, the pension shall terminate.

2. Benefits for children, surviving spouse, etc.—In the event a deceased retirant does not leave a surviving spouse, or if the surviving spouse shall die, and the retirant leaves an unmarried child or children under age 18, each such child shall receive a pension of an equal share of the pension to which the retirant's surviving spouse was or would have been entitled. Upon any such child's adoption, marriage, death, or attainment of age 18, the child's pension shall terminate and said child's pension shall be apportioned to the deceased retirant's remaining eligible children under age 18.

3. Benefits for dependent parents.—In the event a retirant dies and does not leave a surviving spouse or children eligible to receive a pension provided for in subparagraphs 1. and 2., and the retirant leaves a parent or parents whom the Board finds to have been dependent upon the retirant for 50 percent or more of their financial support, each such parent shall receive a pension of an equal share of the pension to which the retirant's surviving spouse would have been entitled. Upon any such parent's remarriage or death, the parent's pension shall terminate.

4. Estate.—In the event a retirant dies and does not leave a surviving spouse, children, or parents eligible to receive a pension provided for in subparagraph 1., subparagraph 2., or subparagraph 3., then the benefits remaining, if any, shall be paid to <u>the member's designated beneficiary. If there is no designated beneficiary, any remaining benefits shall be paid to</u> the retirant's estate.

(21) Rollovers from qualified plans.—

(b) Transfer of accumulated leave.—

1. Members eligible to receive accumulated sick leave, accumulated vacation leave, or any other accumulated leave payable upon separation shall have the leave 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. <u>Effective on or after May 13, 2012, members must take a lump sum distribution of the</u> amounts transferred under this section <u>within 6 months after their termination of employment. For members who reached normal retirement age on or before May 13, 2012, or who had a calculated BackDROP date of October 1, 2011, or earlier, the member's transferred leave must</u> remain invested in the Pension Fund for <u>at least</u> ~~a period of not less than~~ 1 year.

(22) Actuarial assumptions.—The following actuarial assumptions shall be used for all purposes in connection with this Fund, effective October 1, 1998:

(b) The assumed investment rate of return shall be 8.25 percent. <u>Effective October 1, 2014, the assumed investment rate of return shall be 8 percent. Due to the other assumption changes that were made at the same time as this reduction in the assumed rate of return, the City did not have an increase in City contributions as a result of the change of the assumed investment rate of return. Therefore, there was no change necessary to the 3-percent accrual factor in subparagraph (5)(a)2.</u>

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

Approved by the Governor May 12, 2014.

Filed in Office Secretary of State May 12, 2014.