

CHAPTER 2015-206

Committee Substitute for House Bill No. 1333

An act relating to the Firefighters' Relief and Pension Fund of the City of Pensacola, Escambia County; amending chapter 21483, Laws of Florida, 1941, as amended; providing fund compliance with applicable Internal Revenue Code requirements; adding optional forms of benefits; providing for early retirement benefits, minimum disability benefits, state-mandated minimum benefits, minimum normal form of payment, minimum death-in-service benefits, optional forms of retirement, and alternate beneficiaries; providing for required minimum distributions; providing for retirement after 10 years of service; providing for death benefits for survivors; providing for protection of benefits from legal process; providing for rollover distributions; providing for additional benefits required by law; providing definitions; providing for maximum pension; providing for plan termination; providing for forfeitures; providing an effective date.

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

Section 1. Section 1, subsection (a) of section 5, and sections 6, 8, 10, 15, 19, 28, 29, and 30 of chapter 21483, Laws of Florida, 1941, as amended by chapter 2000-468, Laws of Florida, are amended, subsections (h) through (o) are added to section 5, subsection (d) is added to section 13, and sections 31, 32, and 33 are added to that section, to read:

Section 1. Establishment of the Firefighters' Relief and Pension Fund and the Board of Trustees of the Firefighters' Relief and Pension Fund.—

(a) The City of Pensacola previously established the Firefighters' Relief and Pension Fund, a defined benefit pension plan intended to meet the applicable requirements of section 401(a) of the Code, which provides for retirement, disability and death benefits for eligible firefighters. The Firefighters' Relief and Pension Fund is a governmental plan within the meaning of section 414(d) of the Code and, as such, is exempt from the Employee Retirement Income Security Act of 1974, as amended.

(b) There is hereby created in and for the City of Pensacola a Board of Trustees of the Firefighters' Relief and Pension Fund consisting of five members, two of whom, unless otherwise prohibited by law, shall be legal residents of the municipality, who shall be appointed by the legislative body of the municipality, and two of whom shall be firefighters of the municipality who shall be elected by a majority of the firefighters whose names appear on the rolls as members of the fire department of the municipality. The fifth member shall be chosen by a majority of the previous four members as provided for herein, and such person's name shall be submitted to the legislative body of the municipality. Upon receipt of the fifth person's name, the legislative body of the municipality shall, as a ministerial duty, appoint such person to the board of trustees as its fifth member. The fifth member

shall have the same rights as each of the other four members appointed or elected as herein provided. The existing fifth member's term will end on December 31, 1992, with the new appointee, who may be the same person, to commence his or her term on January 1, 1993. The fifth member shall serve as a trustee for a period of 2 years, and may succeed himself or herself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the legislative body at whose pleasure he or she shall serve, and may succeed himself or herself as a trustee. One existing resident member's term will end on December 31, 1991, with the new appointee, who may be the same person, to commence his or her term on January 1, 1992. The other existing resident member's term will end on December 31, 1992, with the new appointee, who may be the same person, to commence his or her term on January 1, 1993. The terms of the resident members will continue in this staggered fashion. Each firefighter member shall serve as trustee for a period of 2 years, unless he or she sooner leaves the employment of the municipality as a firefighter, whereupon his or her successor shall be chosen in the same manner as an original appointment. One existing firefighter member's term will end on December 31, 1991, with the new appointee, who may be the same person, to commence his or her term on January 1, 1992. The other existing firefighter member's term will end on December 31, 1992, with the new appointee, who may be the same person, to commence his or her term on January 1, 1993. The terms of the firefighter members will continue in this staggered fashion. Each firefighter member may succeed himself or herself in office. The board of trustees shall meet at least quarterly each year. The trustees shall by a majority vote elect a chairperson and a secretary. The trustees shall not receive any compensation as such, but shall receive expenses and per diem as may be provided by ordinance, consistent with Florida law. The board of trustees hereby created shall perform all of the duties and enjoy all of the rights and powers, heretofore by law or ordinance vested in the pension board of the City of Pensacola and shall be and constitute a legal entity with the power to bring and defend lawsuits of every kind, nature, and description. The city attorney of each municipality shall give advice to the board of trustees in all matters pertaining to its duties in the administration of the municipal firefighter's pension trust fund whenever requested; and the city attorney shall represent and defend the board as its attorney in all suits and actions at law or in equity that may be brought against it and bring all suits and actions in its behalf that may be required or determined upon by the board. However, if the board of trustees so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein, together with such other professional, technical, or other advisers as the board deems necessary. The Firefighters' Firemen's Relief and Pension Fund heretofore created shall continue to exist exclusively for the purposes provided by this and related legislation, and the responsibility for the administration and proper operation thereof and for effectuating the provisions of law relating thereto is vested in said board of trustees.

Section 5. Basis for compensation.—The pension of all persons entitled thereto, as hereinafter specified, shall be computed upon the basis of their

compensation and their years of service in accordance with the following tables:

(a) For those participants with 20 or more years of service as of the effective date of this act, such compensation shall be calculated by the selection from the last 5 years of service immediately preceding retirement of the best 2 of said years, thereby to arrive at the average monthly earnings of such firefighter. For those participants with less than 20 years of service as of the effective date of this act, such compensation shall be calculated by the last 5 years of credited service, thereby to arrive at the average monthly earnings of such firefighter. Based upon such average monthly rate, a pension shall be paid according to the following table, to wit:

- (i) 75 % upon the first \$200.00 of compensation
- 70 % upon the next \$100.00 of compensation
- 65 % upon any additional amount; or

(ii) If an employee retires on a normal pension benefit after July 1, 1999, with 25 years of service or more, the employee shall receive a benefit equal to 75 percent of his or her final average monthly compensation.

(h) Any firefighter who has attained the age of 50 years and has served as a firefighter for the City of Pensacola for a period of 10 continuous years, upon application to the Board of Trustees of the Firefighters' Relief and Pension Fund, shall be retired on a pension as provided in Part 1 (Charter and Related Special Acts), Subpart B (Related Special Acts), article VI, section 5(a) of the Code of the City of Pensacola, Florida; however, the amount of such pension shall be reduced by 3 percent for each year by which the firefighter's age at retirement precedes the age of 55 and, further, the amount of such monthly benefit shall be actuarially reduced to take into account the firefighter's younger age and the earlier commencement of such benefits.

(i) If after 10 years of service a firefighter suffers a total and permanent disability which is other than in the line of duty and the firefighter retires, the firefighter's monthly benefit shall be the accrued normal retirement benefit but shall not be less than 25 percent of the firefighter's average monthly salary at the time of disability.

(j) The benefit payable to a firefighter who retires from the service of the city due to total and permanent disability as a direct result of a disability that occurred in the line of duty shall be the accrued normal retirement benefit, payable for 10 years certain and life, but shall not be less than 42 percent of the firefighter's average monthly salary at the time of disability.

(k) The amount of monthly retirement income payable to a firefighter who retires on or after the firefighter's normal retirement date shall be, at a minimum, an amount equal to the number of the firefighter's years of

credited service multiplied by 2 percent of the firefighter's average final compensation as a firefighter.

(l) In the event that a firefighter dies after retirement but before the firefighter has received retirement benefits for a period of 10 years, the same monthly benefit will be paid to the beneficiary or beneficiaries designated by the firefighter for the balance of such 10-year period when the firefighter is not survived by a widow or widower entitled to receive spousal benefits. Such beneficiary designation must be in writing and received and approved by the trustees before the firefighter's death.

(m) If a firefighter continues in the service of the city beyond the firefighter's normal retirement date and dies before the firefighter's date of actual retirement, without either leaving a widow or widower entitled to received spousal benefits or affirmatively electing to receive an alternate form of retirement income permissible under the Plan, monthly retirement income payments will be made for a period of 10 years to the beneficiary or beneficiaries designated by the firefighter as if the firefighter had retired on the date on which the firefighter's death occurred. Such beneficiary designation must be in writing and received and approved by the trustees before the firefighter's death.

(n)(1) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified above in this section, a firefighter, upon written request to the board of trustees, before receiving any retirement income or benefit from the Plan, and subject to the approval of the board of trustees, may elect to receive a retirement income or benefit of equivalent actuarial value as calculated under s. 175.162, Florida Statutes, payable in accordance with one of the following options:

a. A retirement income of a larger monthly amount, payable to the firefighter for his or her lifetime only.

b. A retirement income of a modified monthly amount, payable to the firefighter during the joint lifetime of the firefighter and a joint pensioner designated by the firefighter, and following the death of either of them, 100 percent, 75 percent, 66 $\frac{2}{3}$ percent, or 50 percent of such monthly amounts payable to the survivor for the lifetime of the survivor.

c. Such other amount and form of retirement payment or benefits as, in the opinion of the board of trustees, will best meet the circumstances of the retired firefighter.

1. The firefighter, upon electing any option under this section, will designate the joint pensioner or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the Plan in the event of his or her death and will have the power to change such designation from time to time, but any such change shall be deemed a new election and will be subject to approval by the board of trustees. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. If a firefighter has elected an

option with a joint pensioner or beneficiary and his or her retirement income benefits have commenced, the firefighter may thereafter change the designated joint pensioner or beneficiary, but only if the board of trustees consents to such change and if the joint pensioner last previously designated by the firefighter is alive when the firefighter files with the board of trustees a request for such change.

2. The consent of a firefighter’s joint pensioner or beneficiary to any such change shall not be required.

3. The board of trustees may request such evidence of the good health of the joint pensioner that is being removed as it may require, and the amount of the retirement income payable to the firefighter upon designation of a new joint pensioner shall be actuarially redetermined, taking into account the age and sex of the former joint pensioner, the new joint pensioner, and the firefighter. Each such designation will be made in writing on a form prepared by the board of trustees and upon completion will be filed with the board of trustees. In the event that no designated beneficiary survives the firefighter, such benefits as are payable in the event of the death of the firefighter subsequent to his or her retirement shall be paid as provided in subsection (o).

(2) For firefighters hired on or after the effective date of this act, the spousal benefits shall be equal to such benefit payment options as provided by the Florida Retirement System for the Special Risk Class, elected as follows:

a. A monthly benefit payment to the firefighter for the firefighter’s lifetime only.

b. A decreased monthly benefit to the firefighter for the firefighter’s lifetime or 10 years certain. If the firefighter dies before receiving the benefit for 10 years, the beneficiary will receive the same monthly benefit for the remainder of the 10 years.

c. A decreased monthly benefit during the joint lifetime of both the firefighter and his or her joint annuitant and which, after the death of either, shall continue during the lifetime of the survivor in the same amount.

d. A decreased monthly benefit payable during the joint lifetime of the firefighter and his or her joint annuitant and which, after the death of either, shall continue during the lifetime of the survivor in an amount equal to 66 2/3 percent of the amount that was payable during the joint lifetime of the firefighter and his or her joint annuitant.

(3) Retirement income payments made under the option elected in accordance with this section shall be subject to the following limitations:

a. If a firefighter dies before his or her normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined

under section 13 or section 14 of the Plan or s. 175.201, Florida Statutes, as the case may be.

b. If the designated beneficiary (or beneficiaries) or joint pensioner dies before the firefighter's retirement under the Plan, the option elected will be canceled automatically, and a retirement income of the normal form and amount will be payable to the firefighter upon retirement as if the election had not been made, unless a new election is made in accordance with this section or a new beneficiary is designated by the firefighter before retirement and within 90 days after the death of the beneficiary.

c. If both the retired firefighter and the beneficiary (or beneficiaries) designated by him or her die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to section (1)(c) above, the board of trustees may, in its discretion, direct that the actuarial equivalent value of the remaining payments be paid in a lump sum and in accordance with subsection (o).

d. If a firefighter continues beyond his or her normal retirement date and dies before actual retirement and while an option made pursuant to this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the firefighter in the amounts or amounts computed as if the firefighter had retired under the option on the date on which the death occurred.

(4) No firefighter may make any change in his or her retirement option after the date of cashing or depositing the first retirement check.

(o)(1) Each firefighter may, on a form provided for that purpose, signed and filed with the board of trustees, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of his or her death, and each designation may be revoked by such firefighter by signing and filing with the board of trustees a new designation-of-beneficiary form. A firefighter may change his or her beneficiary at any time.

(2) If no beneficiary is named in the manner provided by paragraph (1), or if no beneficiary designated by the firefighter survives him or her, the death benefit, if any, which may be payable under the Plan with respect to such deceased firefighter shall be paid by the board of trustees to the estate of such deceased firefighter, provided that the board of trustees, in its discretion, may direct that the actuarial equivalent value of the remaining monthly income payments be paid in a lump sum. Any payment made to any person pursuant to this section shall operate as a complete discharge of all obligations under the Plan with regard to the deceased firefighter and any other persons with rights under the Plan and shall not be subject to review by anyone but shall be final, binding, and conclusive on all persons ever interested hereunder.

(3) If a firefighter has elected an option with a joint pensioner and retirement income benefits have commenced, the firefighter may transfer, change the designated beneficiary at any time but may only change the joint pensioner twice.

Section 6. Increase in benefits due to consumer price index increases.

(a) A cost-of-living increase in benefits paid pursuant to this act shall be given effective July 1, 1999, for those retired before the effective date of this act and shall be paid annually thereafter. Each annual increase shall have an effective date of July 1. All such increases shall be equal to but no greater than the annual increase in the Consumer Price Index (U) issued by the United States Department of Labor, provided that such increase shall in no event be greater than 3 percent per year. The annual CPI (U) period to be used for calculation of any increase shall end in March of the year of the July 1 increase. The increase in the CPI (U) shall be the change in the values from April 1 to March 31. In the event the United States Department of Labor ceases to issue a CPI (U), the board shall utilize a current CPI index that is the functional equivalent.

(b) A cost-of-living increase in benefits paid pursuant to this act shall be given to those participants hired before the effective date of this act and who retire on or after the effective date of this act and shall be paid annually thereafter. Each annual increase shall have an effective date of July 1. All such increases shall be equal to but no greater than the annual increase in the Consumer Price Index (U) issued by the United States Department of Labor, provided that such increase shall in no event be greater than 2 percent per year. The annual CPI (U) period to be used for calculation of any increase shall end in March of the year of the July 1 increase. The increase in the CPI (U) shall be the change in the values from April 1 to March 31. In the event the United States Department of Labor ceases to issue a CPI (U), the board shall utilize a current CPI index that is the functional equivalent.

(c) A cost-of-living increase in benefits paid pursuant to this act shall be given for those hired on or after the effective date of this act and shall be paid annually thereafter. Each annual increase shall have an effective date of July 1. All such increases shall be equal to but no greater than the annual increase in the Consumer Price Index (U) issued by the United States Department of Labor, provided that such increase shall in no event be greater than 1.25 percent per year. The annual CPI (U) period to be used for calculation of any increase shall end in March of the year of the July 1 increase. The increase in the CPI (U) shall be the change in the values from April 1 to March 31. In the event the United States Department of Labor ceases to issue a CPI (U), the board shall utilize a current CPI index that is the functional equivalent.

~~(d)~~(b) After June 22, 1974, no person shall transfer creditable service from another retirement system into the Firefighters' Relief and Pension Fund.

(e)(e) The City of Pensacola, by ordinance, may permit but not require members of the Firefighters' Relief and Pension Fund who are eligible, to participate in a Deferred Retirement Option Plan (DROP). The ordinance may include members who are eligible to retire and to receive retirement benefits to remain in the active service of the city until a contractually fixed termination date and to have accumulated for the employee's account from the date the contract is made all benefits which the employee would be eligible to begin receiving on that date and to have those accumulated benefits held for the benefit of the employee until the employee separates from active service. Such ordinance may provide for forfeiture of the accumulated benefits or other penalty if the employee does not comply with the contract. However, if the employee complies in all respects with the terms of the contract, the employee shall receive all retirement benefits the employee would be entitled to under this act upon the employee's actual retirement from the active service of the city.

Section 8. Automatic retirement.—

(a) Any firefighter subject to the provisions of this act attaining the age of seventy (70) years shall be automatically retired and shall cease to draw his or her compensation as such employee, but shall become immediately entitled to the pension or benefits provided hereby. In the event of doubt as to the attainment of such age, the Civil Service Board shall make inquiry and determine such fact after due notice to interested parties; provided that the provisions of this section shall not become operative until January 1, 1960, the former law remaining in effect until such date.

(b) Notwithstanding anything in the Firefighters' Relief and Pension Fund to the contrary, all distributions under the Firefighters' Relief and Pension Fund shall comply with Section 401(a)(9) of the Code and the Regulations thereunder, as prescribed by the Commissioner in Revenue Rulings, Notices, and other guidance published in the Internal Revenue Bulletin, to the extent that said provisions apply to governmental plans under Section 414(d) of the Code, and shall be made in accordance with the following requirements:

(1) Time and manner of distribution.—

a. Required beginning date.—The firefighter's entire interest will be distributed, or begin to be distributed, to the firefighter no later than the firefighter's required beginning date.

b. Death of firefighter before distributions begin.—If the firefighter dies before distributions begin, the firefighter's entire interest will be distributed, or begin to be distributed, no later than as follows:

1. If the firefighter's surviving spouse is the firefighter's sole designated beneficiary, then, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year

in which the firefighter died, or by December 31 of the calendar year in which the firefighter would have attained age 70½, if later.

2. If the firefighter's surviving spouse is not the firefighter's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the firefighter died.

3. If there is no designated beneficiary as of September 30 of the year following the year of the firefighter's death, the firefighter's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the firefighter's death.

4. If the firefighter's surviving spouse is the firefighter's sole designated beneficiary and the surviving spouse dies after the firefighter's but before distributions to the surviving spouse begin, this section (1)b., other than section (1)b.1., will apply as if the surviving spouse were the firefighter.

For purposes of this section and section (4) of this Section 8, distributions are considered to begin on the firefighter's required beginning date or, if section (1)b.4. applies, the date distributions are required to begin to the surviving spouse under section (1)b.1. If annuity payments irrevocably commence to the firefighter before the firefighter's required beginning date or to the firefighter's surviving spouse before the date distributions are required to begin to the surviving spouse under section (1)b.1., the date distributions are considered to begin is the date distributions actually commence.

c. Form of distribution.—Unless the firefighter's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year, distributions will be made in accordance with sections (2), (3), and (4) of this Section 8. If the firefighter's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code.

(2) Determination of amount to be distributed each year.—

a. General annuity requirements.—If the interest is paid in the form of annuity distributions under the Firefighters' Relief and Pension Fund, payments under the annuity will satisfy the following requirements:

1. The annuity distributions will be paid in periodic payments made at intervals not longer than 1 year;

2. The distribution period will be over a life (or lives) or over a period certain not longer than the period described in section (3) or (4) of this Section 8;

3. Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted; and

4. Payments will either be non-increasing or increase only as follows:

A. By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

B. To the extent of the reduction in the amount of the firefighter's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in section (3) dies or is no longer the firefighter's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p) of the Code;

C. To provide cash refunds of firefighter contributions upon the firefighter's death; or

D. To pay increased benefits that result from a Firefighters' Relief and Pension Fund amendment.

b. Amount required to be distributed by required beginning date.—The amount that must be distributed on or before the firefighter's required beginning date or, if the firefighter dies before distributions begin, the date distributions are required to begin under section (1)b.1. or (1)b.2. is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bimonthly, monthly, semiannually, or annually. All of the firefighter's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the firefighter's required beginning date.

c. Additional accruals after first distribution calendar year.—Any additional benefits accruing to the firefighter in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(3) Requirements for annuity distributions that commence during the firefighter's lifetime.—

a. Joint life annuities where the beneficiary is not the firefighter's spouse. If the firefighter's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the firefighter and a nonspouse beneficiary, annuity payments to be made on or after the firefighter's required beginning date to the designated beneficiary after the firefighter's death must not at any time exceed the applicable percentage of the annuity

payment for such period that would have been payable to the firefighter using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the Regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the firefighter and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

b. Period certain annuities.—Unless the firefighter’s spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the firefighter’s lifetime may not exceed the applicable distribution period for the firefighter under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the firefighter reaches age 70, the applicable distribution period for the firefighter is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Regulations plus the excess of 70 over the age of the firefighter as of the firefighter’s birthday in the year that contains the annuity starting date. If the firefighter’s spouse is the firefighter’s sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the firefighter’s applicable distribution period, as determined under this section (3)b., or the joint life and last survivor expectancy of the firefighter and the firefighter’s spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Regulations, using the firefighter’s and spouse’s attained ages as of the firefighter’s and spouse’s birthdays in the calendar year that contains the annuity starting date.

(4) Requirements for minimum distributions where the firefighter dies before date distributions begin.—

a. Firefighter survived by designated beneficiary.—Except as provided in the Firefighters’ Relief and Pension Fund, if the firefighter dies before the date distribution of his or her interest begins and there is a designated beneficiary, the firefighter’s entire interest will be distributed, beginning no later than the time described in section (1)b.1. or (1)b.2., over the life of the designated beneficiary or over a period certain not exceeding:

1. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary’s age as of the beneficiary’s birthday in the calendar year immediately following the calendar year of the firefighter’s death; or

2. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary’s age as of the beneficiary’s birthday in the calendar year that contains the annuity starting date.

b. No designated beneficiary.—If the firefighter dies before the date distributions begin and there is no designated beneficiary as of September 30th of the year following the year of the firefighter’s death, distribution of the firefighter’s entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the firefighter’s death.

c. Death of surviving spouse before distributions to surviving spouse begin.—If the firefighter dies before the date distribution of his or her interest begins, the firefighter’s surviving spouse is the firefighter’s sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section (4) will apply as if the surviving spouse were the firefighter, except that the time by which distributions must begin will be determined without regard to subsection (1)b.1. of this Section 8.

(5) Definitions.—For purposes of this Section 8, the following definitions shall apply:

a. Designated beneficiary.—The individual who is designated as the beneficiary in accordance with the Firefighters’ Relief and Pension Fund and is the designated beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-1, Q&A-4, of the Regulations.

b. Distribution calendar year.—A calendar year for which a minimum distribution is required. For distributions beginning before the firefighter’s death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the firefighter’s required beginning date. For distributions beginning after the firefighter’s death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to subsection (1)b. of this Section 8.

c. Life expectancy.—Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

d. Required beginning date.—April 1 of the calendar year following the later of: the calendar year in which the firefighter attains age 70½; or the calendar year in which the firefighter retires from employment with the City of Pensacola.

Section 10. Retirement after 10 years’ service.—If any firefighter of the City of Pensacola shall, after serving as such for a period of 10 full years or becoming otherwise eligible for retirement, cease to be such firefighter for any cause and shall not make withdrawal of all his or her contributions to the Firefighters’ Relief and Pension Fund as provided by law, or having withdrawn the same, shall return it with 8 percent interest from the date of such withdrawal, he or she shall be eligible to receive the benefits equal to the amount provided in section 5(a), multiplied by the number of years of service; for this purpose only the number of years of service can be no more than 25 and divided by 25 years upon attaining the age of 52 years or becoming eligible for retirement by length of service or otherwise; his or her

spouse and children shall in the event of his or her death be likewise so entitled. For purposes of the Firefighters' Relief and Pension Fund, a firefighter who has attained age 52 and completed 10 years of service or completed 25 years of service will have attained normal retirement age. Each firefighter's benefit shall become 100-percent vested upon attaining normal retirement age.

Section 13. Death benefits for survivors.—

(d) Notwithstanding any provisions of the Firefighters' Relief and Pension Fund to the contrary, a retired firefighter may change his or her designation of joint annuitant or beneficiary up to two times, as provided in s. 175.333, Florida Statutes, without the approval of the board of trustees or the current joint annuitant or beneficiary. The retiree is not required to provide proof of the good health of the joint annuitant or beneficiary being removed, and the joint annuitant or beneficiary being removed need not be living. Upon change of a retiree's joint annuitant or beneficiary in accordance with this subsection, the amount of the benefit payable to the retiree shall be actuarially redetermined to take into account the age and sex of the former annuitant or beneficiary, the new annuitant or beneficiary, and the retiree to ensure that the benefit paid is the actuarial equivalent of the present value of the retiree's then-current benefit at the time of the change. Any such retiree shall pay the actuarial recalculation expenses. Each request for a change shall be made in writing to the board of trustees.

Section 15. Benefits to widows, widowers, and dependents.—If a widow or widower receiving a pension under any of the provisions of this act dies, his or her pension shall cease; however, if such death occurs before such widow or widower, as the case may be, and the retiree, collectively, having received retirement benefits for a period of less than 10 years, the same benefit will be paid to the beneficiary or beneficiaries designated by the retiree for the balance of such 10-year period. Such beneficiary designation must be in writing and received and approved by the board of trustees before the retiree's death. The remarriage of a widow or widower receiving a pension under any of the provisions of this act shall cause such pension benefit to cease. If a widow or widower enjoying a pension under any of the provisions of this act shall die, her or his pension shall cease, and if she or he shall remarry while enjoying any such pension, then and in the latter event, her or his pension shall cease and shall not be paid to such widow or widower; provided, however, in the event the deceased firefighter shall be survived by one or more legitimate children under the age of eighteen years at the time the widow or widower shall remarry, the pension board may, in its discretion, grant an amount for the support and maintenance of said child or children until said child or children become eighteen years of age, not to exceed ten dollars (\$10.00) per month for each child, in no event to exceed the sum of forty dollars (~~\$40.00~~ \$40,00) per month for any one family.

Section 19. Protection of benefits from legal process.—

(a) Notwithstanding any other provision of the Firefighters' Relief and Pension Fund to the contrary, Plan assets will not be used for, or diverted to, a purpose other than the exclusive benefit of firefighters or their beneficiaries. No amendment may authorize or permit any portion of the Firefighters' Relief and Pension Fund assets to be used for or diverted to a purpose other than the exclusive benefit of firefighters or their beneficiaries, except to the extent such assets are used to pay administrative expenses of the Firefighters' Relief and Pension Fund. In addition, an amendment to the Firefighters' Relief and Pension Fund may not cause or permit any portion of the assets held under the Firefighters' Relief and Pension Fund to revert to or become property of the city, except as otherwise permitted under the Plan or otherwise permitted by law.

(b) The right of any firefighter or any beneficiary to any benefits under the Firefighters' Relief and Pension Fund or any other right accrued or accruing to any persons under this Plan shall not be subject to execution, garnishment, attachment, the operation of any bankruptcy or insolvency law, or any other process of law whatever and shall not be subject to assignment, pledge, or hypothecation unless expressly authorized in the Firefighters' Relief and Pension Fund. The pensions and other benefits accrued or accruing to any person under this pension plan and the accumulated contributions and the cash securities in the funds created under this plan are exempted from any state, county, or municipal tax and shall not be subject to execution or attachment or to any legal process whatsoever, and shall be unassignable.

Section 28. Rollover distributions.—

(a) Notwithstanding any other provision of the Firefighters' Relief and Pension Fund to the contrary, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion or all of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this section, the following definitions shall apply:

(1) "Distributee" means a firefighter or former firefighter, the firefighter's surviving spouse, and the firefighter's spouse or former spouse who is the alternate payee under a court order, who is entitled to receive a portion of the firefighter's benefit. Effective for plan years beginning on and after January 1, 2007, a nonspouse beneficiary may elect to directly rollover an eligible distribution to an IRA, a Roth IRA, or an individual retirement annuity under section 408(b) of the Code that is established on behalf of the designated beneficiary as an inherited IRA, pursuant to section 402(c)(11) of the Code. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of eligible rollover distribution. In addition, the determination of any required minimum distribution under section 401(a)(9) of the Code that is ineligible for rollover shall be made in accordance with IRS guidance.

(2) “Eligible retirement plan” means an IRA 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, an annuity contract described in section 403(b) of the Code, an eligible plan under section 457 of the Code that agrees to separately account for such transferred amounts and which is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state, or a qualified trust described in section 401(a) of the Code that accepts the distributee’s eligible rollover distribution. For distributions made after December 31, 2007, an eligible retirement plan shall include a Roth IRA as defined under section 408A of the Code.

(3) “Eligible rollover distribution” means any distribution of all or any portion of the firefighter’s benefit, 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; the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any distribution made to satisfy section 415 of the Code.

(4) “Direct rollover” means a payment by the Firefighters’ Relief and Pension Fund to the eligible retirement plan specified by the firefighter.

(b) In the event a mandatory distribution is greater than \$1,000, and a distributee fails to elect to have such distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover or to receive the distribution directly, the board of trustees will pay the distribution in a direct rollover to an individual retirement account (“IRA”) designated by the board of trustees. For purpose of the preceding sentence, a mandatory distribution is a distribution that constitutes an eligible rollover distribution that is made without the firefighter’s consent. See section 12 of the Plan for an example of a potential mandatory distribution. Notwithstanding any provision of the Firefighters’ Relief and Pension Fund to the contrary that would otherwise limit a firefighter’s or retired firefighter’s election (or such deceased individual’s surviving spouse’s election) under this fund, such firefighter or retired firefighter, or such deceased individual’s surviving spouse, may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by such pensioner in a direct rollover.

Section 29. Additional benefits required by law.—

(a) To the extent that the City of Pensacola, as an employer of firefighters and Firefighters’ Relief and Pension Fund plan sponsor, may be required by

law to provide additional benefits to firefighters employed by the city, or their beneficiaries, those additional benefits may be provided by ordinance.

(b) Notwithstanding any other provision of the Firefighters' Relief and Pension Fund to the contrary, contributions, benefits, and service credit with respect to qualified military service, as defined in section 414(u) of the Code, shall be provided in accordance with section 414(u) of the Code, the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), and the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act") and shall be effective as of the dates indicated in USERRA and the HEART Act.

Section 30. Definitions.—The following words and phrases have the following meanings:

(a) "Accrued benefit" means the monthly benefit payable at normal retirement age, as determined under the Firefighters' Relief and Pension Fund's formula.

(b) "Actuarial equivalent" means, for Plan Years before October 1, 2013, the equality in the value of the aggregate amount to be received under different forms of payment, computed on the basis of the 1971 Group Annuity Mortality Table and an interest rate equal to 8 percent per annum. Notwithstanding the foregoing, with respect to disability retirement, "actuarial equivalent" means equality in the value of the aggregate amount to be received under different forms of payment, computed on the basis of the SSA-74 Mortality Table and an interest rate equal to 8 percent per annum. For Plan Years beginning on and after October 1, 2013, "actuarial equivalent" means, unless otherwise specified herein, the equality in the value of the aggregate amount to be received under different forms of payment computed on the basis of the RP 2000 Combined Healthy Mortality Table and an interest rate equal to 8 percent per annum.

(c) "Code" means the Internal Revenue Code of 1986.

(d)~~(a)~~ "Compensation," "salary," and "earnings" mean the wages paid to a firefighter, for those with 10 or more years of service as of the effective date of this act a maximum of 300 hours annual overtime pay, for those with less than 10 years of service as of the effective date of this act a maximum of 200 hours annual overtime pay, for those hired on or after the effective date of this act no longevity pay, overtime pay, station or watch captain pay, special duty pay, in-service sick leave redemption pay (when paid), bonuses, lump-sum payments not paid at termination, inclusive of employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the Internal Revenue Code if the firefighter would receive those reductions or deferrals if he or she were not participating in such program, and any other payments required by law to be included in pension calculations. Compensation for any plan year shall not exceed the annual compensation limit under section 401(a)(17) of the Code, as in effect on the first day of the plan year. This limit shall be adjusted

by the Secretary of the Treasury to reflect increases in the cost of living, as provided in section 401(a)(17)(B) of the Code; however, the dollar increase in effect on January 1 of any calendar year is effective for the plan year beginning in such calendar year. If a Plan determines compensation over a plan year that contains less than 12 calendar months (a “short plan year”), then the compensation limit for such short plan year is equal to the compensation limit for the calendar year in which the short plan year begins multiplied by the ratio obtained by dividing the number of full months in the short plan year.

(e)(b) “Deferred Retirement Option Plan” or “DROP” means a retirement option in which a firefighter may elect to participate, under which a firefighter may retire for all purposes of the plan and defer receipt of retirement benefits into a DROP account while continuing employment with the city.

~~(e) “Direct rollover” means a payment by the Firefighters’ Relief and Pension Fund to the eligible retirement plan specified by the firefighter or retired firefighter or such deceased individual’s surviving spouse.~~

~~(d) “Eligible retirement plan” means an individual retirement account described in section 408(a) of the Internal Revenue Code of 1986, an individual retirement annuity described in section 408(b) of the Internal Revenue Code of 1986, an annuity plan described in section 403(a) of the Internal Revenue Code of 1986, or a qualified trust described in section 401(a) of the Internal Revenue Code of 1986 that accepts the firefighter’s or retired firefighter’s eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased firefighter or deceased retired firefighter, an eligible retirement plan is an individual retirement account or individual retirement annuity.~~

~~(e) “Eligible rollover distribution” means any distribution of all or any portion of the balance to the credit of the firefighter or retired firefighter, 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 firefighter or retired firefighter or the joint lives (or joint life expectancies) of the firefighter or retired firefighter and such individual’s designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code of 1986; and the portion of any distribution that is not includable in gross income.~~

(f) “Enrolled actuary” means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(g) “Firefighter” or “firefighter” means any person employed by the City of Pensacola fire department who is certified as a firefighter as a condition of

employment in accordance with ~~s. the provisions of Section 633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life, or to protect property.~~

(h) "Limitation year" means the plan year.

(i) "Plan" means the Firefighters' Relief and Pension Fund.

(j) "Plan year" means the 12-month period ending on September 30.

(k) "Regulations" means the Treasury Regulations adopted by the Department of Treasury.

~~(l)~~(h) "Retiree" or "retired firefighter" means a firefighter who has entered retirement status. A firefighter who enters a DROP created by the City of Pensacola for firefighters shall be considered a retiree for all purposes of the Firefighters' Relief and Pension Fund.

~~(m)~~(i) "Retirement" means a firefighter's separation from city employment as a firefighter with the immediate eligibility for receipt of benefits under the Firefighters' Relief and Pension Fund, including entry into a Deferred Retirement Option Plan.

(n) "Years of service" means the aggregate number of years of service, and fractional parts of a year of service, of any firefighter, omitting intervention years and fractional parts of years when such firefighter may not have been employed by the City of Pensacola as a firefighter. Service shall include military service, as provided in paragraph (1) below, and shall not include credit for any other type of service.

(1) In determining the creditable service of any firefighter, credit for up to 5 years of the time spent in the military service of the Armed Forces of the United States shall be added to the years of actual service if:

a. The firefighter is in the active employ of the city before such service and leaves a position, other than a temporary position, for the purpose of voluntary or involuntary service in the Armed Forces of the United States.

b. The firefighter is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act.

c. The firefighter returns to his or her employment as a firefighter of the city within 1 year after the date of his or her release from such active service.

(2) In addition to service credits awarded for military service leave under subsection (1) above, any member of the Plan who served in the Armed Forces of the United States as described under chapter 2009-97, Laws of Florida, shall be entitled to purchase service credits for such service or employment by contributing as provided in 2. below an amount which is determined to be the full actuarial cost of the service credits purchased. Once the member is vested but not yet retired or entered into DROP, the member

may purchase a maximum of 5 years of any combination of the aforementioned qualifying noncity service.

1. The contribution required of the employee to purchase service credits for prior military service or prior employment as a firefighter may be made in one lump sum installment or by rollover from a qualified plan.

2. The contribution is an actuarially determined amount of the employee's pensionable current annual compensation at the time of the buy-back for each year purchased.

A member who is receiving or will receive a pension benefit for military or prior firefighter service in any other pension plan supported by public funds, excluding a military pension, may not use or buy back credited service for the City of Pensacola Firefighters' Relief and Pension Fund.

Section 31. Maximum pension.—The benefits otherwise payable to a firefighter or a beneficiary under the Firefighters' Relief and Pension Fund, and, where relevant, the benefits of a firefighter, shall be limited to the extent required by section 415 of the Code. To the extent applicable, section 415 of the Code is incorporated by reference into the Firefighters' Relief and Pension Fund. For this purpose, the "limitation year" is set forth in section 30(h).

Section 32. Plan termination.—Upon termination of the Firefighters' Relief and Pension Fund for any reason, or upon written notice to the board of trustees that contributions thereunder are being permanently discontinued, the rights of all firefighters to benefits accrued to the date of such termination and the amounts credited to a firefighter's account, if applicable, are vested. Upon termination, the Firefighters' Relief and Pension Fund shall be distributed in accordance with the following procedures:

(a) The board of trustees shall determine the date of distribution and the asset value required to the Firefighters' Relief and Pension Fund all the vested benefits after taking into account the expenses of such distribution. The board shall inform the City of Pensacola if additional assets are required, in which event the City of Pensacola shall continue to financially support the Firefighters' Relief and Pension Fund until all vested benefits have been funded.

(b) The board of trustees shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each firefighter entitled to benefits under the Firefighters' Relief and Pension Fund as specified in subsection (c).

(c) The board of trustees shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially equivalent single sum value of such retirement income, except that if the

method of distribution determined under subsection (b) involves the purchase of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial equivalent single sum value may not be less than the firefighter's accumulated contributions to the Firefighters' Relief and Pension Fund, with interest if provided by the Firefighters' Relief and Pension Fund, less the value of any benefits previously paid to the firefighter from the Firefighters' Relief and Pension Fund.

(d) If there is asset value remaining after the full distribution specified in subsection (c), and after the payment of any expenses incurred with such distribution, such excess shall be returned to the City of Pensacola, less return to the state of the state's contributions, provided that if the excess is less than the total contributions made by the City of Pensacola and the state to date of termination of the Firefighters' Relief and Pension Fund, such excess shall be divided proportionately to the total contributions made by the City of Pensacola and the state.

(e) The board of trustees shall distribute, in accordance with subsection (b), the amounts determined under subsection (c).

If, after 24 months after the date the Firefighters' Relief and Pension Fund terminated or the date the board of trustees received written notice that the contributions thereunder were being permanently discontinued, the City of Pensacola or the Board of Trustees of the Firefighters' Relief and Pension Fund has not complied with all the provisions in this section, the Department of Management Services shall effect the termination of the Firefighters' Relief and Pension Fund in accordance with s. 175.361, Florida Statutes.

Section 33. Forfeitures.—

(a) A firefighter or such firefighter's beneficiary shall forfeit all benefits provided by the Firefighters' Relief and Pension Fund to the extent provided by the State Constitution or the Florida Statutes.

(b) Forfeitures arising from any cause whatsoever under the Firefighters' Relief and Pension Fund shall not be applied to increase the benefits any firefighter would otherwise receive under the Firefighters' Relief and Pension Fund at any time before the termination of the Firefighters' Relief and Pension Fund or the complete discontinuance of contributions hereunder. Forfeitures shall be applied to reduce the contributions under the Firefighters' Relief and Pension Fund in the current or subsequent years by the City of Pensacola.

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

Approved by the Governor June 10, 2015.

Filed in Office Secretary of State June 10, 2015.