

## CHAPTER 2017-205

### Committee Substitute for House Bill No. 1025

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; correcting and updating terminology and dates; prohibiting certain participants from receiving a cost-of-living increase in benefits while they are participants in the Deferred Retirement Option Plan; revising and providing definitions; providing the maximum number of hours per plan year of annual overtime pay for certain firefighters; providing severability; providing an effective date.

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

Section 1. Sections 2, 3, and 6, subsection (a) of section 8, section 23, and subsections (b), (d), and (n) of section 30 of chapter 21483, Laws of Florida (1941), as amended by chapters 2000-468 and 2015-206, Laws of Florida, are amended to read:

Section 2. Board to act as trustees of fund; records.—The Pension Board of the City of Pensacola shall act as trustees of the Firefighters' Relief and Pension Fund and shall perform the duties herein required. The secretary of the board shall keep a separate and complete minute book of proceedings of the board in reference to the business and affairs relating to the Firefighters' Relief and Pension Fund. Said minute book shall at all times be kept in the office of the Chief Financial Officer ~~Director of Finance~~ of the City of Pensacola and be open to the public for inspection.

Section 3. Powers of the board.—

(1) In addition to the other powers and authorities granted to it under Florida law, that the pension board shall have power and authority:

(a) To invest and reinvest the assets of the Firefighters' Relief and Pension Fund, as provided by Florida law.

(b) To cause to be issued payments from the Firefighters' Relief and Pension Fund pursuant to this act and rules and regulations prescribed by the board. All such payments shall be made in the manner now provided by law for the disbursement of city funds. The Chief Financial Officer ~~Director of Finance~~ shall maintain an accounting of payments made, and no money shall be otherwise drawn from the fund.

(c) To finally decide all claims to relief under this act and under the board's rules and regulations.

(d) To convert into cash any securities of the fund.

(e) To keep a complete record of all receipts and disbursements and of the board’s acts and proceedings. Said records shall at all times be kept in the office of the Chief Financial Officer ~~Director of Finance~~ of the City of Pensacola and be open to the public for inspection; and a statement and audit of the receipts and disbursements shall be made and a copy furnished to each contributor and each pensioner not less than annually.

(2) Any and all acts and decisions of the pension board shall be effectuated by vote of a majority of the members of such board; however, no trustee shall take part in any action in connection with such trustee’s own participation in the fund.

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 June 10, 2015, ~~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 June 10, 2015, ~~and who retire after June 10, 2015, 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 June 10, 2015, ~~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) After June 22, 1974, no person shall transfer creditable service from another retirement system into the Firefighters’ Relief and Pension Fund.

(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). A participant entering DROP on or after June 10, 2015, shall not receive a cost-of-living increase in benefits while he or she is a participant in 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.~~

Section 23. Depositing of funds and securities.—All funds and securities of the Firefighters’ Relief and Pension Fund may be deposited by the Board of Trustees with the Chief Financial Officer ~~Director of Finance~~ of the city, acting in a ministerial capacity only, who shall keep the same in a separate fund, and he or she shall be liable for the safekeeping of the same, under the bond given by him or her to the city, and he or she shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of the funds of the city.

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

(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 using the most recent actuarial valuation on the basis of the RP 2000 Combined Healthy Mortality Table and an interest rate equal to 8 percent per annum.

(d) “Compensation,” “salary,” and “earnings” mean the wages paid to a firefighter as 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, including employee-elective salary reductions to deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity programs authorized under the Internal Revenue Code if the firefighter would receive those reductions or deferrals if he or she were not participating in such programs, and any other payments required by law to be included in pension calculations. However:

(1) For those firefighters with 10 or more years of service as of June 10, 2015, a maximum of 300 hours per plan year of annual overtime pay shall be included in compensation.

(2) For those firefighters with fewer than 10 years of service as of June 10, 2015, a maximum of 200 hours per plan year of annual overtime pay shall be included in compensation.

(3) For those firefighters hired on or after June 10, 2015, no overtime pay shall be included in compensation 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.

(n) “Years of service” means the aggregate number of years of service, and major fractional parts of a year of service after becoming vested, of any firefighter, omitting intervention years and major fractional parts of a year 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. “Major fractional parts of a year” means 6 months and 1 day.

(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 2. If any provision of this act is determined invalid by a court of law, including, but not limited to, being found to irreconcilably conflict with or violate the minimum standards and benefits conferred upon plan participants by chapter 175, Florida Statutes, as may be amended subsequently, all the rest and remainder of this act shall remain in full force and effect as a law of this state.

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

Approved by the Governor June 6, 2017.

Filed in Office Secretary of State June 6, 2017.