CHAPTER 2018-168

House Bill No. 889

An act relating to the West Palm Beach Police Pension Fund of the City of West Palm Beach, Palm Beach County; amending ch. 24981 (1947), Laws of Florida, as amended; revising retirement pension calculation; conforming terminology; providing an effective date.

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

Section 1. Paragraph (h) of subsection (2), paragraph (a) of subsection (9), paragraph (b) of subsection (13), and paragraph (c) of subsection (17) of chapter 24981 (1947), Laws of Florida, as amended by chapter 2017-207, Laws of Florida, are amended to read:

Section 16. West Palm Beach Police Pension Fund.—

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

(h) "Final average salary" means the average of the monthly salary paid to a member in the 3 best years of employment. In no event shall any one year, beginning January 1, 2005, include more than 400 hours of overtime. Prior to January 1, 2005, individual years may include more than 400 hours of overtime. Effective prospectively from January 1, 2013, the overtime will be limited to 300 hours in any one year. As of the effective date of this act, for purposes of determining final average salary, any lump sum payment made to a member for retroactive pay, such amounts shall not be considered as a lump sum but will be treated as if paid during the retroactive pay periods.

(9) Retirement pension calculation.—

(a) Upon retirement eligibility as provided in subsection (8), a member shall receive a monthly pension. The pension shall be the following, as applicable:

1. For all years of service earned after October 1, 2017, the benefit is calculated using 3 percent of final average salary per year and fractional parts of the years of service up to a total of 26 years, plus 1 percent of the final average salary multiplied by the number of years, and fraction of a year, of credited service in excess of 26 years. For all years of service earned after October 1, 2011, and before October 1, 2017, the benefit is calculated using 2.68 percent of final average salary per year and fractional parts of the years of service and is included in the 26-year limitation ~~up to a total of 26 prospective years, plus 1 percent of the final average salary multiplied by the number of years, and fraction of a year, of credited service in excess of 26 years~~. This change in the multiplier was due to the change in assumptions in a prior version of this special act. This reduction is required by this

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

paragraph. For years of service earned before October 1, 2011, the benefit will be calculated under the provisions of the applicable subparagraphs 2.-4. For purposes of determining the 26-year limitation, the member's total number of years of credited service are used, regardless of whether the multiplier is 3 percent or 2.68 percent. In no event shall the benefit be less than 2.75 ~~2~~ percent per year of credited service.

2. A member who has more than or equal to 12 years and 6 months of service at October 1, 1999, and who was actively employed by the Department on or after October 1, 1999, shall receive a benefit equal to 3 ~~three~~ percent of final average salary multiplied by the number of years, and fraction of a year, of credited service earned from April 1, 1987, to September 30, 2011, plus 2.5 percent of final average salary multiplied by the number of years, and fraction of a year, of credited service earned prior to April 1, 1987, up to a total of 26 years, plus 1 percent of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of 26 years. ~~However,~~ In no event shall the benefit be less than 2.75 ~~2~~ percent per year of credited service. For all years of service after October 1, 2011, the benefit will be calculated in accordance with subparagraph 1.

3. A member who has less than 12 years and 6 months of service on October 1, 1999, and who was actively employed by the Department on or after October 1, 1999, shall receive a benefit equal to 3 ~~three~~ percent of final average salary multiplied by the number of years, and fraction of a year, of credited service up to September 30, 2011, plus 1 percent of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of 26 years. ~~However,~~ In no event shall the benefit be less than 2.75 ~~2~~ percent per year of credited service. For all years of service after October 1, 2011, the benefit will be calculated in accordance with subparagraph 1.

4. A member who terminated employment, retired on a vested deferred benefit, or retired on or before October 1, 1999, shall receive a benefit equal to the greater of the following:

a. Two and one-half percent of final average salary multiplied by the number of years, and fraction of a year, of credited service not to exceed 26 years, plus 1 percent of the final average salary multiplied by the number of years, and fraction of a year, of credited service which is in excess of 26 years; or

b. The sum of the following:

(I) Two and one-half percent of final average salary multiplied by the number of years, and fraction of a year, of credited service earned through September 30, 1988; and

(II) Two percent of final average salary multiplied by the number of years, and fraction of a year, of credited service earned on and after October 1, 1988.

To the extent that the benefit accrual factor is less than 3 percent for active members with less than 12 years and 6 months of service on October 1, 1999, the supplemental pension distribution calculation under subparagraph (12)(a)2. shall be adjusted for employees who retire or enter the DROP after October 1, 1999. The adjustment shall be to decrease the minimum return of 8.25 percent needed to afford the supplemental pension distribution, where the amount of the reduction is zero if an employee has been credited with 12 years and 6 months of service or more with the 3-percent benefit accrual factor or 1.25 percent if an employee has been credited with no more than a 2.5-percent benefit accrual factor. If an employee has been credited with less than 12 years and 6 months of service at the 3-percent benefit accrual factor, then the accumulated amount over 2.5 percent for each year of service divided by one-half percent divided by 12.5 subtracted from 1 multiplied by 1.25 percent is the reduction from 8.25 percent. An example of the calculation of the minimum return for the supplemental pension distribution as herein described is set forth in the collective bargaining agreement between the City of West Palm Beach and the Police Benevolent Association, Certified Unit No. 145 and Certified Unit No. 825, October 1, 1998-September 30, 2001.

Effective October 1, 2011, the assumed investment rate of return was lowered from 8.25 percent to 8 percent, which resulted in a reduction in the benefit multiplier to 2.68 percent for all prospective years of service, up to 26 years of service in total, and 1 percent for each year of service after 26. Additionally, for any supplemental pension distributions subsequent to October 1, 2011, the revised factors in this paragraph will be applied.

(13) Deferred Retirement Option Plan (DROP).—

(b) Amounts payable upon election to participate in DROP.—

1. Monthly retirement benefits that would have been payable had the member terminated employment with the Department and elected to receive monthly pension payments shall be paid into the DROP and credited to the retirant. Payments into the DROP shall be made monthly over the period the retirant participates in the DROP, up to a maximum of 60 months.

2. Effective October 1, 2002, DROP Participants have the option to select between two 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:

a. Earnings using the rate of investment return earned (or lost) on Pension Fund assets as reported by the Fund's investment monitor. DROP assets are commingled with the Pension Fund assets for investment purposes.

b. A fixed rate of 8.25 percent for members who reached normal retirement age on or before October 1, 2012. Effective October 1, 2012, the fixed rate is 8 percent for members who retire or enter the DROP on or after October 1, 2012. In any fiscal year, if the amount paid in investment earnings under this paragraph creates a deficiency as compared to the gross earnings of the pension fund as a whole (using the rate determined by the Fund's investment monitor), then the rate will be reduced to 4 percent effective the next October 1 until the deficiency is satisfied. When the deficiency is satisfied, the rate will return to 8 percent, effective the next October 1. Beginning October 1, 2012, the cumulative amounts paid in earnings for the fixed rate will be maintained in the actuarial valuation.

However, if a police officer does not terminate employment at the end of participation in the DROP, interest credits shall cease on the balance.

3. No payments shall be made from the DROP until the member terminates employment with the Department.

4. Upon termination of employment, participants in the DROP shall receive the balance of the DROP account in accordance with the following rules:

a. Members may elect to begin to receive payment upon termination of employment or defer payment of the DROP until the latest day as provided under sub-subparagraph c.

b. Payments shall be made in either:

(I) Lump sum.—The entire account balance shall be paid to the retirant upon approval of the Board of Trustees.

(II) Installments.—The account balance shall be paid out to the retirant in three equal payments paid over 3 years, the first payment to be made upon approval of the Board of Trustees.

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

c. Any form of payment selected by a police officer must comply with the minimum distribution requirements of s. 401(A)(9) of the Internal Revenue Code and is subject to the requirements of subsection (30) of this act; e.g., payments must commence by age 70-½.

d. If a member dies and is eligible for benefits from the DROP account, the entire balance of the DROP account shall be converted to the name of the beneficiary designated in accordance with subsection (9)(e). The entire balance shall be paid out in a lump sum to the beneficiary, at the discretion of the beneficiary. If the designated beneficiary is the surviving spouse, the account may remain with the Fund until the latest period specified under subsection (30). These DROP accounts shall not be eligible for any further DROP distributions but are eligible for earnings. If a member fails to designate a beneficiary, or if the beneficiary predeceases the member, the entire balance shall be converted, in the following order, to the name or names of:

1. The member's surviving children on a pro rata basis;

2. If no children are alive, the member's spouse;

3. If no spouse is alive, the member's surviving parents on a pro rata basis; or

4. If none are alive, the estate of the member.

The accounts which are converted to the names of the beneficiaries shall have the right to name a successor beneficiary. Any designated beneficiary, other than the surviving spouse of the member, must take a distribution of the entire DROP ~~share~~ account balance by the end of 5 years after the death of the member. Installment distributions which begin in the calendar year of the member's death shall be treated as complying with this 5-year distribution requirement, even though the installments are not completed within 5 years after the member's death.

e. 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.

(17) Death benefits.—

(c) Death after retirement.—Upon the death of a retirant, the following applicable pensions shall be paid, subject to the provisions of subsection (18). This paragraph is not applicable if a retiree chose an optional form of benefit at the time of retirement or if the retiree was not entitled at the time of retirement under paragraph (9)(c).

1. The surviving spouse of the retirant shall receive a pension of two-thirds of the retirant's pension, provided that the retirant was receiving a pension under paragraph (9)(a). Upon the surviving spouse's death, the pension shall terminate. Effective for years of service earned after June 6, 2017, ~~the effective date of this act,~~ if the retiree leaves a surviving spouse that he or she was not married to on the date of retirement, then the survivor benefit may be actuarially reduced to take into account the age of the substituted survivor.

2. In the event the deceased retirant does not leave a surviving spouse eligible to receive a pension, or if the surviving spouse dies and he or she leaves an unmarried child or children under age 18, each child shall receive a pension of an equal share of two-thirds of the deceased retirant's pension. Upon any child's adoption, marriage, death, or attainment of age 18, the

child's pension shall terminate and it shall be apportioned to the pensions payable to the deceased retirant's remaining eligible children under age 18. In no case shall the pension payable to any such child exceed 20 percent of the deceased retirant's pension, or be less than $15 per month.

3. In the event the deceased retirant does not leave a surviving spouse or children eligible to a pension provided for in subparagraphs 1. and 2. above, and he or she leaves a parent or parents who the Board finds are dependent upon the retirant for at least 50 percent of his, her, or their financial support, each parent shall receive a pension of an equal share of two-thirds of the deceased retirant's pension. Upon any parent's remarriage or death, his or her pension shall terminate.

4. In the event the deceased member does not leave a surviving spouse, children, or parents eligible to receive a pension, then the death benefit, if any, shall be paid to the estate of the deceased member. Any retirement income payments due after the death of a vested member may, in the discretion of the Board, be paid to the member's designated beneficiary or beneficiaries.

In any of the above cases, the Board, in its discretion, may direct that the actuarial value of the monthly benefit be paid as a lump sum.

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

Approved by the Governor March 23, 2018.

Filed in Office Secretary of State March 23, 2018.