

## CHAPTER 2022-249

### House Bill No. 1189

An act relating to the Firefighters' Relief and Pension Fund of the City of Pensacola, Escambia County; amending ch. 21483, Laws of Florida, 1941, as amended; removing reductions to a retiree's spousal benefits and the prohibition of remarriage for the widow or widower; providing for pensionable overtime hours and basic life support; providing an effective date.

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

Section 1. Subsection (n) of section 5, subsection (a) of section 13, and subsection (d) of section 30 of chapter 21483, Laws of Florida, 1941, as amended by chapters 2017-205, 2015-206, and 2000-468, Laws of Florida, are amended to read:

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:

(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.~~

~~(2)(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.

#### Section 13. Death benefits for survivors.—

(a) In the event of the death of a pensioner while he or she is actually drawing a pension under the provisions of this act, or in the event of the death of any person entitled to the benefits of this act, who shall have been employed as a firefighter, the widow or widower of such person, ~~so long as she or he remains unmarried,~~ shall be paid a monthly pension equal to one-twelfth ( $\frac{1}{12}$ th) of seventy-five percent (75%) of the annual pension which the deceased pensioner or person so entitled was receiving or to which he or she would have been entitled in the event of retirement as of the date of his or her death, having regard to his or her period of service and rate of compensation, irrespective of his or her age, which pension shall be for the use of the said widow or widower. ~~If the widow's or widower's pension has been terminated due to remarriage and such marriage ends in the spouses's death or divorce, then the widow's or widower's pension may be restored by the pension board in the same amount as previously provided by provisions of this act,~~

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

(d) "Compensation," "salary," and "earnings" mean the wages paid to a firefighter as a maximum of 300 hours of annual overtime pay, basic life

support (bls), 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.~~ 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.

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

Approved by the Governor May 16, 2022.

Filed in Office Secretary of State May 16, 2022.