

House Bill No. 1589

An act relating to the General Pension and Retirement Fund of the City of Pensacola, Escambia County; repealing and replacing chapter 61-2655, Laws of Florida, as amended; creating, establishing, and reinstating a pension fund providing for retirement, disability, death, and survivor benefits for the general employees of the City of Pensacola; providing definitions; providing for contributions to the fund by employees of the City of Pensacola; providing for investment of funds held in such retirement fund; providing that this act shall not affect present pensioners; providing for severability; repealing chapter 20061, Laws of Florida, 1939; chapter 27816, Laws of Florida, 1951; chapter 29409, Laws of Florida, 1953; chapter 29410, Laws of Florida, 1953; chapter 61-2655, Laws of Florida, and laws or parts of laws in conflict; providing an effective date.

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

Section 1. The General Pension and Retirement Fund of the City of Pensacola is re-created to read:

Section 1. Establishment of General Pension and Retirement Fund.—

(1) There is hereby created for the general employees of the City of Pensacola, Florida, a fund to be entitled the “General Pension and Retirement Fund” providing for retirement, disability, and death benefits for such general employees. The General Pension and Retirement Fund shall be administered and distributions made therefrom as provided in this act.

(2) Irrespective of anything contained herein, as now expressed or hereafter amended, the General Pension and Retirement Fund shall be used for the exclusive benefit of the members of the plan, their dependents, or their beneficiaries at all times and for the satisfaction of all rights and liabilities with respect to members of the plan, their dependents, or their beneficiaries hereunder and for costs and expenses of operating the fund.

(3) The General Pension and Retirement Fund shall continue to exist exclusively for the purposes provided by this act and related legislation.

Section 2. Definitions.—The words and phrases as used in this act shall have the following meanings unless a different meaning is plainly required by the context:

(1) Act.—The General Pension and Retirement Fund Special Act.

(2) Actuary.—The person, firm, or corporation, one of whose officers shall be a member of the Society of Actuaries and an enrolled actuary, as defined by the Employee Retirement Income Security Act of 1974, authorized by the board of trustees of the fund to render actuarial services to the fund.

(3) Average monthly salary.—One twenty-fourth of the salary of the 2 best years of the last 5 years of credited service prior to retirement or death.

- (4) Bank of national repute.—See investment bank of national repute.
- (5) Beneficiary.—Person so designated in writing by a member of the general pension plan who may become entitled to receive a refund of contributions made by a member of the plan.
- (6) Best 2 years.—Two separate periods of 365 consecutive days.
- (7) Board of trustees, the board, or the general pension board.—The pension board, consisting of six members as provided in this act.
- (8) City.—The City of Pensacola.
- (9) City council.—The city council of the City of Pensacola.
- (10) Code.—Internal Revenue Code of 1986, as amended.
- (11) Credited service years or credited years of service.—A period of service years credited to a member of the plan in which the member has contributed an amount to the General Pension and Retirement Fund, as provided in this act.
- (12) Dependent.—The spouse or dependent children under the age of 18 of a member of the plan.
- (13) Dependent children.—A son or daughter under 18 years of age who is born in wedlock to a member of the plan; and/or a child under 18 years of age adopted by a member of the plan; and/or a child under 18 years of age dependent upon a member of the plan for support whose dependency is proven to the satisfaction of the board or, in the alternative, whose dependency has been established by a final court order.
- (14) Disability.—Physical or mental impairment which renders an employee partially and permanently or totally and permanently unable to perform the duties of his or her employment or unable to perform any substantial gainful employment.
- (15) ECUA.—Escambia County Utilities Authority.
- (16) General Pension and Retirement Fund, general pension plan, or the plan.—The special fund created exclusively for the purposes provided in this act.
- (17) Investment bank of national repute.—A bank having trust powers or a trust company which is experienced in the fiduciary investment of pension funds from more than one state.
- (18) Line of duty.—Within the scope of employment as an employee of the city during such times as such employee was rendering services to the city.
- (19) Major fraction of a year.—For calculation of benefits in this act, 6 months and 1 day.
- (20) Member of the plan.—An individual who has been credited with a period of service under the plan and has contributed an amount to the plan, as provided in this act.

(21) Nonemployment.—Any period of time an individual is not employed in any capacity by the City of Pensacola.

(22) Normal retirement and early retirement.—Any retirement not based upon a disability, illness, or injury.

(23) Plan.—The General Pension and Retirement Fund.

(24) Plan administrator.—The Director of Finance of the City of Pensacola.

(25) Pensioner.—A member of the plan who has drawn or is drawing a pension under the provisions of this act.

(26) Permanent full-time employee.—A person employed by the city, working an established work period set forth by city policy, and not employed on a part-time, temporary, or specified timeframe basis.

(27) Refund of contributions.—The distribution of funds contributed by a member of the plan.

(28) Retiree.—A member of the plan, or a dependent of a member, who has drawn or is drawing a pension under the provisions of this act.

(29) Salary.—The total cash remuneration paid to the member of the plan by the city for services rendered before all pretax, salary deferral, or salary reduction contributions made to the General Pension and Retirement Fund on behalf of the general pension plan member under section 404(h)(2) of the Internal Revenue Code and any code section 457 plan and section 125 plan of the city. Unless otherwise provided by the city council, “salary” shall exclude any educational incentive pay, field training pay, certificate pay, specialized duty pay, pistol qualifications pay, clothing allowance, education benefit, accumulated sick leave pay at retirement, accumulated vacation pay at retirement, and any other pay excluded by the city council.

(30) Service under the plan.—A period of service years credited to a member of the plan, during which the member has contributed an amount to the General Pension and Retirement Fund, as provided in this act.

(31) Spouse.—Under the laws of the State of Florida, the legally married husband or wife of the member of the plan.

(32) Surviving spouse.—The legally married husband or wife of a member of the plan who outlives the member of the plan.

(33) Vested member or vesting right.—A member of the plan who has a right, or the right itself, to future pension benefits as provided in this act.

Section 3. Pension board.—

(1) There is hereby created a pension board of the City of Pensacola, consisting of six members.

(a) Three members shall be residents of Escambia County who are freeholders of the city and shall be appointed by the city council for a term of

6 years or until their successors are appointed and qualified. Each appointment shall be for a term of 6 years, with one appointment being made every 2 years, which appointment shall be made not later than the second regular meeting of the council held in July of each odd-numbered year hereafter.

(b) The remaining three members shall consist of the current presiding mayor of the city, or his appointed representative, who shall serve at the pleasure of the mayor, and two active, contributing participants of the General Pension and Retirement Fund, who shall be elected by a plurality vote of active, contributing participants of the fund, said election to be held at the same time as the election of members of the Classified Service Employee Executive Committee of the city. Each elected member shall take office upon election and shall serve for a term of 2 years or until the member's successor is elected and qualified. Should a vacancy occur in the position of elected member, the Classified Service Employee Executive Committee shall, within 30 days, appoint a successor to serve for the balance of the term.

(2) The pension board is vested with the responsibility for the administration and proper operation of the fund and for compliance with the provisions of all related laws and regulations.

Section 4. Oath of office; meetings; quorum.—Before entering upon the duties as a member of the pension board, each member shall take and subscribe to the oath of office required by the city charter, which oath shall be filed with the city clerk. The board shall elect one of its members chairperson, who shall be a voting member of the board. The Director of Finance shall serve as plan administrator and shall be the chief administrative officer of the General Pension and Retirement Fund and shall keep the minutes of the board. The board shall meet as often as is necessary, upon the request of the chairperson or the plan administrator. A majority of the board shall constitute a quorum for the transaction of any business.

Section 5. Powers of the board.—The pension board shall have the power and authority to:

(1) Adopt rules and regulations, not inconsistent with the provisions of this act, governing its activities and providing for the certification of the moneys to be paid from the General Pension and Retirement Fund.

(2) Perform all the duties and enjoy all the rights and powers vested by law or ordinance. The city attorney of the city may give advice and legal assistance to the pension board in all matters pertaining to the performance of its duties, whenever requested, and may prosecute and defend all suits which may be instituted by or against the board. However, if in the opinion of the city attorney or in the opinion of the pension board, a conflict of interest exists as to a particular matter, the pension board may, in its discretion, employ independent legal counsel for such purposes, the expense of such employment to be paid from the General Pension and Retirement Fund.

(3) Cause subpoenas to be issued and require the attendance of witnesses and the production of documents for the purpose of determining or redeter-

mining at any time and from time to time the eligibility, right, or entitlement to any pension, benefit, or other payment provided under this act.

(4) Employ its own secretary, clerks, stenographers, or other personnel as required, who shall be paid such compensation, from the General Pension and Retirement Fund only, as fixed by the pension board. Nothing herein shall be construed to authorize or empower the board to incur such expense or obligation to be borne by the City of Pensacola.

Section 6. Reserved.

Section 7. Membership requirements and exclusions.—

(1) All permanent full-time employees of the city automatically become, upon employment, members of the General Pension and Retirement Fund of the city, except that the city may by ordinance amend or revise the foregoing membership criteria in the General Pension and Retirement Fund, provided, however, that in no event shall the following be permitted to participate in the General Pension and Retirement Fund:

(a) Members of the fire department of the city who are eligible to participate under the Firemen's Relief and Pension Fund.

(b) Any officer or employee of the police department hired on or after October 1, 1979, who is eligible to participate in the Police Officers' Retirement Fund of the city.

(c) City fire and police department public safety cadets.

(d) All permanent full-time employees of the city hired prior to October 6, 1997, making an election not to participate in the plan and having continuous service from October 6, 1997, until retirement.

(e) Any individual who is drawing a normal retirement or early retirement benefit and who is subsequently reemployed by the city. Such individual shall not be eligible for current participation in the plan and shall continue to draw a pension benefit from the plan.

(f) Elected officials of the city.

(2) As a condition of eligibility of such employees to credit toward future retirement benefits based upon prior years of service as an employee of the city, there shall be paid to the fund or transferred from qualified plans maintained by the city or other qualified retirement plans an amount determined by the plan administrator to be sufficient to cover such prior years of service at 8 percent interest compounded annually. However, the plan from which such funds are transferred must permit the transfer to be made and the transfer must not jeopardize the tax-exempt status of this plan or create adverse tax consequences for the city.

Section 8. Escambia County Utilities Authority provisions.—

(1) Individuals who transferred to the Escambia County Utilities Authority when established in 1981 and who chose to continue participation in the

General Pension and Retirement Fund shall be members of the plan and governed by all provisions of this act. When administering this act on behalf of ECUA members of the plan, the phrase "City of Pensacola" shall be interpreted as ECUA where applicable.

(2) Notwithstanding any provision of this act, disability determinations concerning ECUA employees shall be made by the general pension board, but shall not be effective unless and until the personnel appeals board of ECUA, utilizing the criteria set forth in section 15, concurs in such determinations.

(3) The ECUA, through its proper officers, shall deduct 5.5 percent from the salary of the members of the plan and shall pay the same to the General Pension and Retirement Fund. Such moneys shall be deposited in a special account by the City of Pensacola to be designated "General Pension and Retirement Fund," and no employee shall have any right to said moneys paid into the fund except as otherwise provided in this act.

(4) The ECUA shall make for the ECUA members of the plan a payment of a sum equal to the actuarially required funding amount shown by an annual actuarial valuation, as approved by the general pension board.

Section 9. Multiple plan participant.—If an employee is or has been a participant in one or more defined benefit plans and/or one or more defined contribution plans maintained by the city and participation by such employee, hereinafter referred to as the "multiple plan participant," in such multiple plans will cause, in a particular limitation year, the limitations of the Internal Revenue Code to be violated, the benefit payable under this act shall be reduced to the maximum benefit which may be paid to the multiple plan participant without causing a violation of the code after considering the benefits and contributions for the multiple plan participant under all other plans that must be considered in determining benefits and contributions for purposes of the limitations of the code. Regardless of whether caused by multiple plan participation, the maximum annual benefit payable to a participant under this plan shall not exceed the amount allowable under the code as applied to governmental plans described in section 414(d) of the code. The effect of this section shall be to limit the benefits payable under this act to an amount which does not cause a violation of the code.

Section 10. Eligible rollover distributions.—

(1) For distributions made on or after January 1, 1993, notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by rules and regulations of the board, to have any portion of any eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(2) The following words and phrases, as used in this section, shall have the following meanings unless a different meaning is plainly required by the context:

(a) Eligible rollover distribution.—Any distribution of all or any portion of the balance of the General Pension and Retirement Fund to the credit of the distributee. Eligible rollover distribution, however, does not include:

1. 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.

2. Any distribution to the extent required under section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

3. The portion of any distribution that is not includable in gross income of the distributee, such as that portion of a distribution attributable to employee after-tax contributions to the plan.

(b) Eligible retirement plan.—An individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the code, an annuity plan described in section 403(a) of the code, or a qualified trust described in section 401(a) of the code that accepts the distributee’s eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(c) Distributee.—An employee or former employee who receives any distributions from the General Pension and Retirement Fund. In addition, the employee’s or former employee’s surviving spouse and employee’s or former employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code, are distributees with regard to the interest of the spouse or former spouse.

(d) Direct rollover.—A payment by the plan to the eligible retirement plan specified by the distributee.

Section 11. Designation of employee contributions.—For the purposes of section 414(h) of the Internal Revenue Code, the contributions made by each employee to the General Pension and Retirement Fund shall be designated as “employer contributions.” However, such designation is contingent upon the contributions being excluded from the employee’s gross income for federal income tax purposes. Such contributions shall, nevertheless, be subject to refund or return to the employee upon termination of employment, or otherwise as provided in this act.

Section 12. Reserved.

Section 13. Separation from service and reemployment.—

(1) Former members of the plan.—Any employee who has separated from employment with the city for any reason except normal retirement or early retirement, hereinafter referred to as “nonemployment,” and who withdrew

his or her contribution to the plan, shall upon reemployment, if within 10 years after the last separation date, be entitled to buy back his or her prior service years under the plan for the purpose of computing the period of service under the plan. The employee shall not be entitled to buy back periods of nonemployment except as provided by section 14 of this act. If the employee elects to repay the contributions upon reemployment, he or she shall have 6 months from the reemployment date to repay the withdrawn contributions plus 8 percent interest compounded annually from the date of withdrawal.

(2) Former nonmembers of the plan.—Any employee who has separated from employment, hereinafter referred to as “nonemployment,” with the city for any reason, who has never been a member of the General Pension and Retirement Fund, and who is reemployed within 10 years after the last separation date may elect to have his or her eligible prior service years added to his or her subsequent service for the purpose of computing the period of service under the plan. The employee shall not be entitled to buy back periods of nonemployment except as provided by section 14 of this act. Service years eligible for another city-defined benefit plan shall not be included in the calculation of the period of service under the General Pension and Retirement Fund. The employee shall have 6 months from the date of reemployment to pay an amount determined by the plan administrator to be sufficient to cover such period of eligible prior service years at 8 percent interest compounded annually.

(3) Vested members of the plan.—Any employee who has separated from employment, hereinafter referred to as “nonemployment,” with the city for any reason, without having withdrawn his or her contribution to the plan but having a vested right to a benefit as provided by this act, shall upon reemployment be allowed to continue computation of credited years of service by including the vested period. The employee shall not be entitled to buy back periods of nonemployment except as provided by section 14 of this act.

(4) Reemployment after disability.—Any employee who has separated from employment, hereinafter referred to as “nonemployment,” with the city and who received a disability pension as provided by this act shall upon reemployment be allowed to continue computation of credited years of service by including all prior credited years of service. The employee shall not be entitled to credit for periods of nonemployment except as provided by section 14 of this act.

Section 14. Military service.—When any provision of law requires that any period of service in the Armed Forces of the United States is deemed continuous service in the employment of the city for purposes of computing credited service under this act, such service shall be so credited. However, if any member of the plan has withdrawn the contributions or any part thereof paid by the member into the fund, the member shall return such moneys to the fund. In addition, such member shall pay into the fund, within the time required by applicable federal or state law, all contributions the member would have been required to pay during the term the member was actively serving in the Armed Forces of the United States.

Section 15. Disability.—A pension for injury or illness, whether incurred in the line of duty or not in the line of duty, as provided in this act, shall be awarded only upon determination of the disability. The City of Pensacola adheres to the Americans with Disabilities Act of 1990 as may be amended, and reasonable accommodation for disabilities shall be evaluated on a case-by-case basis. Application, determinations, awards, and reevaluation of disability pensions shall be governed by the following:

(1) An employee, or the employer on behalf of the employee, must make application for a disability pension, complete with medical and other evidentiary material as prescribed by the board.

(2) Upon receipt of an application for a disability pension, the board shall make a determination of the disability, which determination shall be final. The board may employ the services of one or more independent third-party agents, such as, but not limited to, a physician or a health and disability claims adjusting firm, to evaluate the case and to make a report containing recommended findings and conclusions, which may be approved, disapproved, or modified in the determination of the board.

(3) In the case of determination of disability, the board shall award a disability pension in an amount computed as a percentage equal to the percentage of the employee's disability times the full disability pension award as provided in this act. At any time after an employee is awarded a disability pension, the City of Pensacola may offer its former employee employment for which his or her disability does not prevent performance. At such time as the former employee returns to active service, or at such time as the former employee fails to accept said offer of employment, all disability payments shall cease.

(4) The board, through its third-party agents, shall periodically reevaluate disability pensioners to determine if the condition of the disability persists.

(a) A disabled pensioner's percentage of disability may be reclassified upon reevaluation by the board.

(b) If the pensioner has recovered sufficiently, as determined by the board, so that he or she is no longer disabled, and such determination is made within 1 year after the effective date of the award of the pension, said pensioner shall be reinstated to active service in the same rank he or she occupied prior to the award of the pension. If such determination is made more than 1 year after the effective date of the award of the pension, the pensioner shall be placed on an eligible list to be reinstated to his or her position upon the first vacancy in that position. At such time as a pensioner resumes active service, or at such time as the pensioner fails to accept reinstatement to active service, the payment of pension benefits shall cease.

Section 16. Reserved.

Section 17. Normal retirement with 20 or more years of credited service under the plan.—

(1) All members of the plan who have attained the age of 55 years who have at least 20 credited service years under the plan preceding the date of application for retirement may apply for and be entitled to benefits under the provisions of this act. In calculating the years of service under the plan, a major fraction of a year shall be computed as a whole year.

(2) If any member of the plan has not attained the age of 55 years after a period of 20 credited service years under the plan and does not make withdrawal of funds from the General Pension and Retirement Fund, such employee shall be eligible to receive a pension after attaining the age of 55 years. Said member of the plan must have a vested right to said pension. A major fraction of a year of credited service shall be computed as a whole year for the purpose of vesting rights.

(3) For the purpose of determining the monthly pension of an employee:

(a) The General Pension and Retirement Fund of the city shall pay to each member of the plan retired hereafter, whose credited service years under the plan are not less than 20 years and who has attained the age of 55 years, a pension which has as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

<u>75% upon the first</u>	<u>\$200</u>
<u>50% upon the next</u>	<u>\$100</u>
<u>40% upon all in excess thereof; and</u>	

(b) Any employee who has attained 20 credited years of service under the plan and who elects to remain employed after reaching 55 years of age shall upon retirement be entitled to all of the rights and benefits provided for in this act, and, in addition, the monthly pension shall be increased by 1 percent for each year of credited service between the age of 55 years and the actual age of retirement, but not for any year beyond the age of 70; or

(c) The monthly pension for a member of the plan who retires on or after July 1, 1988, shall be equal to 2 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding retirement times the number of years of credited service under the plan not in excess of 30 credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this subsection.

(4) The monthly pension shall in no event be less than \$25 for each year of credited service under the plan not in excess of 20 years.

Section 18. Early retirement at 25 years of credited service, having attained the age of 45 years.—

(1)(a) Any member of the plan who has 25 credited service years under the plan prior to attaining the age of 55 years may retire at any time after

reaching the age of 45 years and receive a reduced pension, which shall have as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. A major fraction of a year of credited service under the plan shall be computed as a whole year. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first	\$200
50% upon the next	\$100
40% upon all in excess thereof; or	

(b) The monthly pension for a member of the plan who retires on or after July 1, 1988, shall be equal to 2 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding retirement times the number of years of credited service under the plan not in excess of 30 years, unless the payments would be greater if calculated by the formula set forth above.

(2) After said amount has been determined, the sum payable shall be adjusted by the following factors for early retirement as may be applicable to the member's age at the time of retirement:

Retirement Factors

<u>Age at retirement</u>	<u>Factor</u>
55	1.000
54	.928
53	.856
52	.784
51	.730
50	.676
49	.622
48	.586
47	.550
46	.514
45	.478

(3) The monthly pension shall in no event be less than \$25 for each year of credited service not in excess of 20 years.

Section 19. Normal retirement with less than 20 years of credited service under the plan.—After a period of 10 credited years of service under the plan, any member of the plan not having made withdrawal of funds from the General Pension and Retirement Fund shall be eligible to receive a pension upon attaining the age of 60 years. Said member of the plan shall have a vested right to said pension. However, any member of the plan leaving employment must have a period of not less than 10 credited service years under the plan in order to obtain a vested interest and right to pension benefits. A major fraction of a year of credited service shall not be computed as a whole year for the purpose of vesting rights.

(1)(a) The General Pension and Retirement Fund of the city shall pay to those members of the plan with less than 20 credited service years under the

plan a pension which shall have as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. A major fraction of a year of credited service under the plan shall be computed as a whole year. Based upon such average monthly salary, a pension shall be paid according to the following table:

<u>75% upon the first</u>	<u>\$200</u>
<u>50% upon the next</u>	<u>\$100</u>
<u>40% upon all in excess thereof; and</u>	

(b) After said amount has been determined, the sum payable shall be reduced to the percentage set opposite the number of years of credited service shown in the following schedule:

<u>For 10 years of service</u>	<u>60%</u>
<u>For 11 years of service</u>	<u>63%</u>
<u>For 12 years of service</u>	<u>66%</u>
<u>For 13 years of service</u>	<u>69%</u>
<u>For 14 years of service</u>	<u>72%</u>
<u>For 15 years of service</u>	<u>75%</u>
<u>For 16 years of service</u>	<u>80%</u>
<u>For 17 years of service</u>	<u>85%</u>
<u>For 18 years of service</u>	<u>90%</u>
<u>For 19 years of service</u>	<u>95%</u>

(2) The monthly pension shall in no event be less than \$25 for each year of credited service under the plan not in excess of 20 years.

Section 20. Refund of contributions with less than 10 credited years of service, except for disability or death in the line of duty.—

(1) In the event any member of the plan with less than 10 credited years of service separates from service, except for disability or death in the line of duty, such member or the decedent's dependent or beneficiary shall receive a refund of the member's contributions to the plan.

(a) The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan and/or the member's dependents.

(b) Distribution election and distribution of a refund of contributions shall be made within 90 days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

(c) Any refund of the member's contributions under this act shall be in full satisfaction of any and all claims by any person against the General Pension and Retirement Fund.

(2) The service years shall be computed on the basis of the total credited service years under the plan, either continuous or by totaling separate or discontinuous periods for the required total period. A major fraction of a year of credited service shall not be computed as a whole year for the purpose of vesting rights.

Section 21. Disability injury or illness in line of duty.—If any member of the plan, due to injury or illness in the line of duty, makes application for retirement and is entitled to the benefits under this act, the General Pension and Retirement Fund of the city shall pay according to the following schedule:

(1)(a) The General Pension and Retirement Fund of the city shall pay to each member of the plan retired hereafter because of injury or illness in the line of duty, whose period of credited service under the plan is not less than 20 years, a pension which has as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

<u>75% upon the first</u>	<u>\$200</u>
<u>50% upon the next</u>	<u>\$100</u>
<u>40% upon all in excess thereof; and</u>	

(b) Any employee who has attained 20 years of credited service under the plan and who elects to remain employed after reaching 55 years of age shall upon disability retirement be entitled to all of the rights and benefits provided for in this act, and, in addition, the monthly pension shall be increased by 1 percent for each year of service between the age of 55 years and the actual age of disability retirement, but not for any year beyond the age of 70; or

(c) The monthly pension for a member of the plan who retires on or after July 1, 1988, shall be equal to 2 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding disability retirement times the number of years of credited service under the plan not in excess of 30 years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section.

(2)(a) The General Pension and Retirement Fund of the city shall pay to those members of the plan retired hereafter because of injury or illness in the line of duty, whose period of credited service under the plan is less than 20 years, a pension which has as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first \$200
50% upon the next \$100
40% upon all in excess thereof; and

(b) After said amount has been determined, the sum payable shall be reduced to the percentage set opposite the number of years of credited service shown in the following schedule:

<u>For less than 1 year of service</u>	<u>60%</u>
<u>For 1 year of service</u>	<u>62%</u>
<u>For 2 years of service</u>	<u>64%</u>
<u>For 3 years of service</u>	<u>66%</u>
<u>For 4 years of service</u>	<u>68%</u>
<u>For 5 years of service</u>	<u>70%</u>
<u>For 6 years of service</u>	<u>72%</u>
<u>For 7 years of service</u>	<u>74%</u>
<u>For 8 years of service</u>	<u>76%</u>
<u>For 9 years of service</u>	<u>78%</u>
<u>For 10 years of service</u>	<u>80%</u>
<u>For 11 years of service</u>	<u>82%</u>
<u>For 12 years of service</u>	<u>84%</u>
<u>For 13 years of service</u>	<u>86%</u>
<u>For 14 years of service</u>	<u>88%</u>
<u>For 15 years of service</u>	<u>90%</u>
<u>For 16 years of service</u>	<u>92%</u>
<u>For 17 years of service</u>	<u>94%</u>
<u>For 18 years of service</u>	<u>96%</u>
<u>For 19 years of service</u>	<u>98%</u>

(3) The monthly pension shall in no event be less than \$25 for each year of credited service not in excess of 20 years.

(4) In computing the number of years of credited service under the plan, a major fraction of a year shall be computed as a whole. The disability benefits provided for herein shall be in addition to any other benefits payable.

(5) In the event any member of the plan becomes disabled in the line of duty while employed, such member shall receive a pension benefit as provided in this section or, upon request, in lieu of a pension benefit, shall receive a refund of the member's contributions to the General Pension and Retirement Fund.

(a) The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan.

(b) Distribution election and distribution of a refund of contributions shall be made within 90 days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

(c) Any refund of the member's contributions under this act shall be in full satisfaction of any and all claims by any person against the General Pension and Retirement Fund.

Section 22. Death in the line of duty.—In the event any member of the plan dies in the line of duty while employed, the deceased member's dependents or beneficiaries shall be eligible to receive benefits as provided for in sections 21 and 24 of this act.

Section 23. Disability injury or illness not in the line of duty.—If any member of the plan who, due to injuries or illness not in the line of duty, makes application for disability retirement and is entitled to the benefits under this act, the General Pension and Retirement Fund of the City of Pensacola shall pay according to the following schedule. In computing the number of years of credited service under the plan, a major fraction of a year shall be computed as a whole. The disability benefits provided for shall be in addition to any other benefits payable.

(1)(a) The General Pension and Retirement Fund of the city shall pay to each member of the plan retired hereafter because of injuries or illness not in the line of duty, whose period of credited service is not less than 20 years, a pension which has as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

<u>75% upon the first</u>	<u>\$200</u>
<u>50% upon the next</u>	<u>\$100</u>
<u>40% upon all in excess thereof; and</u>	

(b) Any employee who has attained 20 years of credited service under the plan and who elects to remain employed after reaching 55 years of age shall upon retirement be entitled to all of the rights and benefits provided in this act, and, in addition, the monthly pension shall be increased by 1 percent for each year of credited service between the age of 55 years and the actual age of retirement, but not for any year beyond the age of 70; or

(c) The monthly pension for a member of the plan who retires on or after July 1, 1988, shall be equal to 2 percent of the average monthly salary of the member during the best 2 years out of the last 5 years immediately preceding retirement times the number of years of credited service under the plan not in excess of 30 years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section.

(2)(a) The General Pension and Retirement Fund of the city shall pay to those members of the plan retired hereafter because of injury or illness not in the line of duty, whose period of credited service under the plan is less than 20 years, a pension which has as its basis for calculation the selection of the best 2 years out of the last 5 years immediately preceding retirement, and thereby arrive at the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

<u>75% upon the first</u>	<u>\$200</u>
<u>50% upon the next</u>	<u>\$100</u>
<u>40% upon all in excess thereof; and</u>	

(b) After said amount has been determined, the sum payable shall be reduced to the percentage set opposite the number of years of credited service shown in the following schedule:

<u>For 10 years of service</u>	<u>60%</u>
<u>For 11 years of service</u>	<u>63%</u>
<u>For 12 years of service</u>	<u>66%</u>
<u>For 13 years of service</u>	<u>69%</u>
<u>For 14 years of service</u>	<u>72%</u>
<u>For 15 years of service</u>	<u>75%</u>
<u>For 16 years of service</u>	<u>80%</u>
<u>For 17 years of service</u>	<u>85%</u>
<u>For 18 years of service</u>	<u>90%</u>
<u>For 19 years of service</u>	<u>95%</u>

(3) The monthly pension shall in no event be less than \$25 for each year of credited service under the plan not in excess of 20 years.

(4) In the event any member of the plan with less than 10 years of credited service under the plan becomes totally or partially disabled not in the line of duty and such member is disabled to such an extent that he or she cannot properly discharge the duties of his or her employment, such member shall receive, in lieu of a pension, a refund of the total amount of his or her contributions to the General Pension and Retirement Fund. A

major fraction of a year of credited service shall not be computed as a whole year for the purpose of vesting rights.

(a) The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan.

(b) Distribution election and distribution of a refund of contributions shall be made within 90 days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

(c) Any refund of the member's contributions under this act shall be in full satisfaction of any and all claims by any person against the General Pension and Retirement Fund.

Section 24. Other benefit provisions.—

(1) The order of eligibility for a pension benefit or a refund of contributions under this act shall be first to the member of the plan, next to dependents if the member of the plan dies, then to the beneficiaries if there are no eligible dependents, and finally to the estate of the decedent if a beneficiary has not been named.

(2) In the event of the death of an individual eligible to receive benefits under this act, his or her dependents or beneficiaries shall become immediately entitled to the benefits herein provided.

(a) Dependents eligible to receive a pension shall be paid in the following order:

1.a. To the surviving spouse, a monthly pension equal to one-twelfth of 80 percent of the annual pension which the deceased pensioner was receiving or to which the decedent would have been entitled in the event of retirement as of the date of death.

b. Effective on or after passage of this act, if the surviving spouse should remarry, the surviving spouse of the deceased member of the plan shall continue to be entitled to the pension benefit provided for herein. Notwithstanding this provision, if a surviving spouse should become a surviving spouse of more than one deceased member of the plan, the surviving spouse shall receive only the greater dependent benefit. In no case shall the surviving spouse receive benefits from more than one deceased member of the plan.

2. If such decedent is not survived by a spouse but has dependent children under the age of 18 years or, if such decedent is survived by a spouse and dependent children under the age of 18 years and the spouse dies before the youngest of said dependent children attains the age of 18 years, the dependent children of said decedent shall receive an amount equal to the benefit to which a surviving spouse would have been entitled under subparagraph 1. in equal shares among the dependent children and not exceeding in total the surviving spouse benefit. If any dependent child under this subparagraph ceases to be eligible for benefits for any reason, the benefits

shall be recalculated to provide for equal shares to the remaining eligible dependent children.

(b) A beneficiary shall be entitled only to a refund of the contributions of the deceased member of the plan.

1. The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan and/or the member's dependents.

2. Distribution election and distribution of a refund of contributions shall be made within 90 days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

3. Any refund of the member's contributions under this act shall be in full satisfaction of any and all claims by any person against the General Pension and Retirement Fund.

(3) In the event any member of the plan with 10 or more credited service years under the plan dies or otherwise separates from service of the city, such member or the deceased member's dependent shall, upon request, receive a refund of the member's contributions to the General Pension and Retirement Fund in lieu of a pension benefit.

(a) The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan and/or the member's dependents.

(b) Distribution election and distribution of a refund of contributions shall be made within 90 days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

(c) Any refund of the member's contributions under this act shall be in full satisfaction of any and all claims by any person against the General Pension and Retirement Fund.

Section 25. Misconduct charges; hearings, forfeiture.—

(1) No member of the plan shall at any time be retired under this or any other section of this act while any charges of misconduct are pending before the civil service board against such member, but such charge shall be heard and determined, and no application for retirement shall be made or acted upon until 30 days subsequent to the final determination.

(2) A member of the plan shall forfeit all benefits provided by this act to the extent provided by the State Constitution and section 112.3173, Florida Statutes.

Section 26. Cost-of-living increases.—A cost-of-living increase in benefits paid pursuant to this act shall be given effective July 1, 1999, and shall be paid biennially thereafter. Each biennial increase shall have an effective date of July 1. All such increases shall be equal to, but no greater than, the

increase in the Consumer Price Index (U) (CPI) issued by the United States Department of Labor since the date of the last cost-of-living increase which was granted pursuant to this section, and in no event shall such increase be greater than 3 percent. In the event the United States Department of Labor ceases to issue a CPI (U), the board may utilize a CPI index that is the functional equivalent. The period to be used for calculation of any CPI increase shall be April 1 of the last year in which an increase was given to March 31 of the year in which the increase is to be given.

Section 27. Deferred Retirement Option Plan.—The City of Pensacola, by ordinance, may permit members of the General Pension and Retirement Fund 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 28. Benefits under other statutes to remain unchanged.—Nothing in this act shall operate to increase or diminish or in any way alter the amount of any pension now being paid by the City of Pensacola or any retirement benefits under the provisions of chapter 20061, Laws of Florida, 1939, and chapter 61-2655, Laws of Florida, as amended, or otherwise.

Section 29. General pension benefits to be unaffected by other benefit payments.—If any employee of the City of Pensacola who is participating in the benefits provided by this act is entitled to any social security benefits and/or deferred compensation benefits as a city employee, the amount of such benefits received shall not be deducted from the amount to which the employee is entitled under the provisions of this act.

Section 30. Maximum benefits.—Notwithstanding any provision of this act, the maximum benefit to be paid to any member of the plan shall not exceed the limitations, if any, provided in section 112.65, Florida Statutes.

Section 31. Reserved.

Section 32. Continuance of existing fund sources of revenue.—There is hereby continued in the City of Pensacola the fund heretofore established and known as the General Pension and Retirement Fund, to be maintained in the following manner:

(1) All sums of money now in the existing fund, designated "General Pension and Retirement Fund," shall remain therein.

(2) The City of Pensacola, through its proper officers, shall deduct 5.5 percent from the salary of members of the general pension plan and shall

pay the same to the pension board herein created. Such payments shall be deposited in a special account by the City of Pensacola to be designated "General Pension and Retirement Fund," and no employee shall have any right to any moneys paid into the fund except as otherwise provided in this act.

(3) By all gifts, bequests, and devices when donated to said fund and all other sources of income now or hereafter authorized by law for its augmentation.

(4) By all accretions to the fund by way of interest, profit, or otherwise.

(5) By mandatory payment by the City of Pensacola of a sum equal to the actuarially required funding amount shown by an actuary's annual valuation as approved by the general pension board.

(6) This provision supersedes the provisions contained in chapter 18777, Laws of Florida, 1937, as amended, chapter 24804, Laws of Florida, 1947, as amended, or any other applicable law, and no other revenue or funding source shall be utilized to maintain the fund other than as is provided for in subsections (1) through (5).

Section 33. Maintenance of sufficient funds to meet liabilities.—It is the duty of the pension board to at all times maintain the general pension fund at an amount sufficient to meet its current liabilities and, should there be an excess, the pension board may request the city council to authorize the abatement of the 5.5 percent employee contributions deducted under subsection (2) of section 32 proportionately to such amount as will maintain the fund as nearly as possible without increase or diminution; however, should the current income of the fund become insufficient to meet its current liabilities after the provision has been set apart for accumulations as above specified, the pension board shall so certify to the city manager, and it is the mandatory duty of the city and all of the officers thereof to provide from any source of revenue available, budgeted or unbudgeted, or from any fund, whether earmarked by ordinance or statute for other purposes, except that designated interest and sinking fund, a sufficient sum to meet such current liabilities without default. It is the mandatory duty of the city and its officers to fully fund from any source of revenue available any unfunded actuarially accrued liabilities arising under the General Pension and Retirement Fund as a result of pension benefits earned by city employees while actively employed by the city.

Section 34. Retiree health insurance premium assistance.—The General Pension and Retirement Fund shall provide premium assistance for each covered general retiree participating in the city group health insurance plan in the amount of \$56 per month. The General Pension and Retirement Fund shall make payments to the City of Pensacola no less often than monthly to provide such premium assistance. Upon recommendation of the board of trustees, the city council may authorize a change in the monthly premium assistance paid to the City of Pensacola. No later than December 31, 1999, all amounts held in the City of Pensacola's General Pension Medical Account allocated for such premium assistance payments shall be transferred to the General Pension and Retirement Fund.

Section 35. Reserved.

Section 36. Investing funds; custodian of securities, contracts with investment banks.—

(1) The pension board shall have the power and authority to invest and reinvest the assets of the General Pension and Retirement Fund in:

(a) Time or savings accounts of a national bank, a state bank insured by the Federal Deposit Insurance Corporation, or a savings and loan association insured by the Federal Savings and Loan Insurance Corporation.

(b) Obligations of the United States or obligations guaranteed as to principal and interest by the United States.

(c) Obligations of municipal authority issued pursuant to the laws of this state; however, for each of the 5 years next preceding the date of investment, the income of such authority available for fixed charges shall have been not less than 1½ times its average annual fixed-charges requirement over the life of its obligations.

(d) Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia; however, the board shall not invest more than 5 percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed 5 percent of the outstanding capital stock of the company, nor shall the aggregate market value of the fund's investments in common stocks exceed 75 percent of the assets of the fund, nor shall the aggregate market value of the fund's investments in all corporate securities exceed 80 percent of the assets of the fund.

(e) Commingled bank and insurance company temporary investment, stock, and bond funds without regard to the quality restrictions for individual securities contained in paragraph (d).

(f) Commingled bank and insurance company real estate funds up to the maximum of 15 percent of assets at market value. Direct ownership and operation of real estate properties are prohibited.

(g) Guaranteed insurance contracts.

(h) Foreign securities, provided that the aggregate market value of such investments does not exceed 25 percent of the assets of the fund.

(2)(a) The pension board and the City of Pensacola are hereby authorized to contract with one or more investment banks of national repute to act as agents and corporate trustees of all or any portion of the assets of the fund. The investment bank or banks shall have full investment powers with respect to said assets subject to the provisions of subsection (1) which limit the types of investments which may be made, and subject to such further restrictions as may be imposed by the board.

(b) The city and the board, for the purpose of contracting with an investment bank or banks to invest all or any portion of the fund, shall enter into agreements between themselves providing for procedures for selecting, entering into contracts with, and terminating contracts with any such investment bank or banks.

(3) In order to accomplish the purpose outlined in subsection (2), the pension board may direct the plan administrator of the city to act as the board's agent in handling the administrative details concerning contracting with the investment bank; however, the plan administrator or his or her designee shall report the status of the pension funds to the pension board on a quarterly basis or with greater frequency as requested by the board, and the pension board shall review same and give directions to the plan administrator with respect to the continued contract status of the investment bank.

Section 37. Reserved.

Section 38. Reserved.

Section 2. If any section, clause, or portion of this act is for any reason held or declared to be unconstitutional, invalid, inoperative, or void, such unconstitutionality or invalidity shall not affect the remaining provisions of this act, and it shall be construed to have been the legislative intent to pass this act without such unconstitutional, invalid, or inoperative portion or portions, and the remaining provisions of the act shall be deemed valid as if such excluded portion or portions had not been included therein.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed. Chapter 20061, Laws of Florida, 1939, as amended; chapter 27816, Laws of Florida, 1951, as amended; chapter 29409, Laws of Florida, 1953, as amended; chapter 29410, Laws of Florida, 1953, as amended; and chapter 61-2655, Laws of Florida, as amended, are repealed.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.