

## CHAPTER 2022-238

### House Bill No. 929

An act relating to the City of West Palm Beach, Palm Beach County; amending ch. 24981 (1947), Laws of Florida, as amended; revising the definition of the term “salary”; providing that the definition does not include certain persons in a collective bargaining agreement; providing for retroactive restoration of the benefit accrual rate to 3 percent for all years of a member’s service within a specified time period; conforming a provision to changes made by the act; providing that eligible members receive a lump-sum payment for accumulated leave payable upon retirement; providing exceptions; providing a directive to the Division of Law Revision; providing an effective date.

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

Section 1. Paragraph (q) of subsection (2), paragraph (a) of subsection (9), and paragraph (b) of subsection (31) of section 16 of chapter 24981 (1947), Laws of Florida, as amended by chapters 2012-259, 2017-207, and 2018-168, 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:

(q) “Salary” means the fixed monthly compensation paid to a member; compensation shall include those items as have been included as compensation in accordance with past practice. However, the term shall not be construed to include lump sum payments for accumulated leave. On and after January 1, 2003, salary shall mean total cash remuneration paid by the City to a police officer for services rendered excluding lump sum payments for accumulated leave such as accrued vacation leave, accrued sick leave, and accrued personal leave. Effective January 1, 2005, overtime hours earned and paid in excess of 400 hours in any 26 consecutive pay periods shall be excluded from the definition of salary. Effective prospectively from January 1, 2013, overtime hours earned and paid in excess of 300 hours in any 26 consecutive pay periods shall be excluded from the definition of salary.; Prior to January 1, 2005, all overtime hours earned and paid shall be included in the definition of salary and shall not be limited by any cap. This definition of compensation shall not include off-duty employment performed for vendors other than the City of West Palm Beach per Article 30, Pension Plan and Section 8 5 of the collective bargaining agreement between the Florida State Lodge, Fraternal Order of Police, Inc., Certified Unit No 1985 and Certified Unit No 1986, Palm Beach County Police Benevolent Association and the City of West Palm Beach. Beginning with salary paid after December 31, 2008, and pursuant to s. 414(u)(7) of the Internal

Revenue Code, “salary” includes amounts paid by the City as differential wages to members who are absent from employment while in qualified military service.

(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.a. 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. 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 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 percent per year of credited service.

b. Beginning upon the effective date of this act, the benefit accrual rate of 2.68 percent as described in sub-subparagraph 1.a. will be retroactively restored to 3 percent for all years of a member’s service between October 1, 2011, and October 1, 2017, provided that the member retires or enters DROP after the effective date of this act. This benefit is not available to members who retired, including entry into DROP, prior to the effective date of this act.

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 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. In no event shall the benefit be less than 2.75 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 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. In no event shall the benefit be less than 2.75 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 Florida State Lodge, Fraternal Order of Police, Inc., Certified Unit No 1985 and Certified Unit No 1986, October 1, 2021, to September 30, 2024 ~~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.

(31)

(b) Transfer of accumulated leave.—

1. Members who are eligible to receive a lump-sum payment for accumulated leave payable upon retirement including entry into DROP, but neither vested termination nor non-vested termination, separation and who have funds remaining after the contributions to the health savings account as required by the collective bargaining agreement shall have the remaining leave payment transferred to the Fund up to the amount permitted by law. Any additional amounts shall be paid directly to the member. Members on whose behalf leave has been transferred shall maintain the entire amount of the transferred leave balance in the DROP or Share Account.

2. If a member on whose behalf the City makes a transferred leave balance to the Plan dies after retirement or other separation, then any person who would have received a death benefit had the member died in service immediately prior to the date of retirement or other separation shall be entitled to receive an amount equal to the transferred leave balance in a lump sum. In the case of a surviving spouse or former spouse, an election may be made to transfer the leave balance to an eligible retirement plan in lieu of the lump sum payment. Failure to make such an election by the surviving spouse or former spouse within 60 days after the member's death shall be deemed an election to receive the lump sum payment.

3. The Board, by rule, shall prescribe the method for implementing the provisions of this paragraph.

4. Amounts transferred under this section shall remain invested in the Fund for a period of not less than 1 year.

Section 2. The Division of Law Revision is directed to replace the phrase “the effective date of this act” wherever it occurs in this act with the date this act becomes a law.

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

Approved by the Governor May 6, 2022.

Filed in Office Secretary of State May 6, 2022.