

STORAGE NAME: h3649a.ca

DATE: April 8, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

BILL #: HB 3649

RELATING TO: City of Jacksonville Beach/ Retirement

SPONSOR(S): Representative Fuller and others

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS YEAS 7 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill authorizes a DROP plan option for employees covered under the retirement system for the City of Jacksonville Beach, Florida.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Constitutional Provisions: Protection of Public Retirement and Pensions

Article X, Section 14, of the Florida Constitution provides that, after January 1, 1977, any governmental unit responsible for a retirement or pension system supported wholly or partially by public funds may not increase pension benefits for members or beneficiaries of that system unless the unit of government has previously funded or concurrently funds the benefit increase on a sound actuarial basis. Part VII of chapter 112, Florida Statutes, as described below, implements these provisions.

Chapter 112, Florida Statutes

Chapter 112, F.S., contains general provisions of law affecting state and local public officers and employees. Various parts of the chapter govern conditions of employment, retirement, death benefits, etc. Part VII, the "Florida Protection of Public Employee Retirement Benefits Act," establishes requirements for public pension plans to ensure that all state and local government retirement plans are:

... managed, administered, operated, and funded in such a manner as to maximize the protection of public employee retirement benefits. [s. 112.61, F.S.]

Section 112.665(1)(c), F.S., provides that the Division of Retirement shall:

Cooperate with local retirement systems or plans on matters of mutual concern and provide technical assistance to units of local government in the assessment and revision of retirement systems or plans;

Section 112.67, F.S., prohibits special acts which conflict with the provisions of part VII of chapter 112, F.S.:

112.67 Special acts prohibited.--Pursuant to s. 11(a)(21), Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application in conflict with the requirements of this part.

City of Jacksonville Beach/Employees' Retirement System

The City of Jacksonville Beach Employees' Retirement System was created by special act of the Legislature by authority of chapter 27643, Laws of Florida, and has been amended subsequent to that time.

The retirement plan does not currently offer a Deferred Retirement Option Program (DROP) to its employees.

Deferred Retirement Option Plan (DROP)

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DROP is an optional retirement plan different from the normal service retirement because it is designed to allow the participant to accumulate a lump cash sum amount for retirement. Under DROP, the participant makes a decision to determine base retirement benefit rates, yet continue to work. At the end of the DROP period, the participant must terminate employment. The participant can then receive payment of the accumulated DROP benefits as a lump sum, direct roll-over or combined lump sum and roll-over.

B. EFFECT OF PROPOSED CHANGES:

This bill authorizes a DROP plan option for employees covered under the retirement system for the City of Jacksonville Beach, Florida.

The bill provides for employee eligibility in the plan not to exceed 36 consecutive months. The member must request in writing to participate in the DROP. The DROP participant must be a retirant under the retirement system except payment of benefits to the retirant are deferred until separation from city employment. Normal retirement benefits and interest continue to accrue in the DROP until the established termination date or until the participant terminates employment or dies prior to such date. An annual accounting of each participant's accrued benefits are furnished to the participant.

The bill provides for distributions of the plan's benefits. The choices are lump sum, all accrued DROP benefits, plus interest, less withholding taxes; direct rollover, all accrued benefits, plus interest, to the custodian of an eligible retirement plan defined in section 402(c)(8)(B) of the IRC; or partial lump sum, a portion of the accrued DROP benefits paid to the participant or surviving spouse, less withholding taxes remitted to the IRS and the remaining DROP benefits transferred directly to the custodian of an eligible retirement plan defined in section 402(c)(8)(B) of the IRC.

The bill specifies that payment must begin no later than the date on which the participant reaches age 70.5 years. If an employee failed to terminate city employment at the expiration of the 36 month maximum DROP participation period, the employee is deemed not to be retired and the DROP election is deemed null and void and the member is not entitled to be paid any accumulated DROP benefits. Provisions are allowed to reinstate the employee in the service of the city and the retirement plan of the city.

DROP benefits are not subject to assignment, execution, attachment or any legal process except for qualified domestic relations orders and appropriate income deduction orders as provided by state and federal law.

The bill provides for death benefits to be paid to the beneficiary under the plan as long as death does not occur the first month benefits are being credited to the DROP. In that case, retirement system benefits are paid as though the DROP election was not made.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 27643, Laws of Florida, 1951, as amended.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1 -- Adds subsection (5) to section 9 of chapter 27643, Laws of Florida, 1951, as amended to provide a deferred retirement option program (DROP) to the retirement plan for employees of the City of Jacksonville Beach, Florida; provides for eligibility in the plan; provides for participation in the plan; provides for distributions of the plan's benefits; provides for death benefits under the plan; provides for contributions to the plan; provides circumstances under which retirement benefits may be forfeited; and provides for administration of the program to be decided by rules of the board of trustees.

Section 2 -- Provides for an effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? 10/31/97

WHERE? Jacksonville Beach, FL The Beaches Leader

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

The Florida Division of Retirement, Department of Management Services comments in their bill analysis:

Distribution provisions are not clear. Section 9.(5)(c)4.c., implies distributions other than lump sum, partial lump sum or rollover. In any event, it should be made clear the pay-out of a participant's DROP account will only continue until the participant's entire account balance is exhausted.

In a letter to Mr. Bruce Corbitt, Pension Plan Administrator for the City of Jacksonville Beach, dated March 13, 1998, the State of Florida Division of Retirement's Actuary for the Bureau of Local Retirement Systems stated, in part:

We recommend that the proposed bill be amended to clarify the DROP's distribution provisions. . . . We have been told of misunderstandings of the nature of payments from a DROP account. Regardless of the form of pay-out elected, it should be made clear that the pay-out of a participant's DROP account will only continue until the participant's entire account balance is exhausted.

The Division's letter also stated that the actuarial impact statement dated December 8, 1997 is not **state accepted** as the assumptions regarding retirement rates are inadequate. Experience has demonstrated that in instances where other plans offer the DROP, retirement is occurring sooner than anticipated in those plans. The Division has asked for a revised actuarial report.

The actuarial firm of Gabriel, Roeder Smith and Company, Gainesville, Florida, indicated that they are in the process of revising the actuarial statement. It was not available at the time this research statement was published.

House Rule 92(a), provides that "if a committee determines that a local bill may be enacted into law under the authority of a local governing body, that committee shall

not report the bill to the Clerk.” The purposes of this local bill could be accomplished by a local ordinance *but would require* the special acts related to the pension plan be repealed by the Legislature and converted to local ordinances.

The ordinances are then subject to modification or repeal by the local governing body as are other local ordinances. The entire contents of the act remain in full force and effect during the conversion process.

Because the special acts related to the career service system have not been repealed and converted to local ordinances, House Rule 92(a) does not apply in this instance.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

An amendment, adopted by the Committee on Community Affairs on April 7, 1998, clarifies that a DROP participant’s funds are paid until the account is exhausted.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Joan E. Highsmith-Smith

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