

By Representative Frankel

1 A bill to be entitled
2 An act relating to the City of West Palm Beach,
3 Palm Beach County; amending ch. 24981, Laws of
4 Florida, 1947, as amended, relating to the West
5 Palm Beach Firefighters' Pension Fund;
6 providing for a Deferred Retirement Option
7 Plan; providing additional exclusions from
8 disability pensions; providing for retroactive
9 effect; providing for Internal Revenue Code
10 limits; providing an effective date.

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

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14 Section 1. Paragraph (k) is added to subsection (5) of
15 section 17 of chapter 24981, Laws of Florida, 1947, as
16 amended, to read:

17 Section 17. West Palm Beach Firefighters Pension
18 Fund.--

19 (5) Service pension.--

20 (k) Deferred Retirement Option Plan (DROP).--

21 1. Eligibility to participate in the DROP.--

22 a. Any member who is eligible to receive an early or
23 normal retirement pension may participate in the DROP. Members
24 shall elect to participate by applying to the Board of
25 Trustees on a form provided for that purpose.

26 b. Election to participate shall be forfeited if not
27 exercised within the first 33 years of combined credited
28 service. However, participation in the first years of
29 enactment will be extended to those members with 34 years of
30 service in 1997.

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1 c. A member shall not participate in the DROP beyond
2 the time of attaining 35 years of service and the total years
3 of participation in the DROP shall not exceed 3 years. For
4 example:

5 (I) Members with 32 years of credited service at time
6 of entry shall only participate for 3 years.

7 (II) Members with 33 years of credited service at time
8 of entry shall only participate for 2 years.

9 d. Upon a member's election to participate in the
10 DROP, he or she shall cease to be a member and shall no longer
11 accrue any benefits under the pension fund. For all fund
12 purposes, the member becomes a retirant. The amount of
13 credited service and final average salary shall freeze as of
14 the date of entry into the DROP.

15 2. Amounts payable upon election to participate in the
16 DROP.--

17 a. Monthly retirement benefits that would have been
18 payable had the member terminated employment with the
19 department and elected to receive monthly pension payments
20 will be paid into the DROP and credited to the retirant.
21 Payments into the DROP will be made monthly over the period
22 the retirant participates in the DROP, up to a maximum of 36
23 months.

24 b. Payments to the DROP earn interest using the rate
25 earned on pension fund assets during the 12-month period
26 ending each September 30th. The rate determined shall be the
27 rate reported to the Division of Retirement pursuant to part
28 VII of chapter 112, Florida Statutes. However, if a member
29 does not terminate employment at the end of participation in
30 the DROP, interest credit shall cease on the current balance
31 and on all future DROP deposits.

1 c. No payments will be made from the DROP until the
2 member terminates employment with the department.

3 d. Upon termination of employment, participants in the
4 DROP will receive the balance of the DROP account in
5 accordance with the following rules:

6 (I) Members may elect to begin to receive payment upon
7 termination of employment or defer payment of the DROP until
8 the latest day under sub-sub-subparagraph (III).

9 (II) Payments shall be made in either:

10 (A) Lump sum.--The entire account balance will be paid
11 to the retirant upon approval of the Board of Trustees.

12 (B) Installments.--The account balance will be paid
13 out to the retirant in three equal payments paid over 3 years,
14 the first payment to be made upon approval of the Board of
15 Trustees.

16 (C) Annuity.--The account balance will be paid out in
17 monthly installments over the lifetime of the member or until
18 the entire balance is exhausted. Monthly amount paid will be
19 determined by the fund's actuary in accordance with selections
20 made by the member on a form provided by the Board of
21 Trustees.

22 (III) Any form of payment selected by a member must
23 comply with the minimum distribution requirements of the IRC
24 Section 401(A)(9), and is subject to the requirements of
25 subsection (19).

26 (IV) The beneficiary of the DROP participant who dies
27 before payments from the DROP begin shall have the same right
28 as the participant in accordance with subsection (7).

29 3. Loans from the DROP.--

30 a. Availability of loans.--

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1 (I) Loans are available to members only after
2 termination of employment, provided the member had
3 participated in the DROP for a period of 12 months.
4 (II) Loans may only be made from a member's own
5 account.
6 (III) There may be no more than one loan at a time.
7 b. Amount of loan.--
8 (I) Loans may be made for up to a maximum of 50
9 percent of account balance.
10 (II) The maximum dollar amount of a loan is \$50,000,
11 reduced by the highest outstanding loan balance during the
12 last 12 months.
13 (III) The minimum loan is \$5,000.
14 c. Limitations on loans.--Loans shall be made from the
15 amounts paid into the DROP and the earnings thereon.
16 d. Term of loan.--
17 (I) The loan must be for at least 1 year.
18 (II) The loan shall be for no longer than 5 years.
19 e. Loan interest rate.--
20 (I) The interest rate shall be fixed at the time the
21 loan is originated for the entire term of loan.
22 (II) The interest rate shall be equal to the lowest
23 prime rate published by the Wall Street Journal on the last
24 day of each calendar quarter preceding the date of loan
25 application.
26 f. Defaults on loans.--
27 (I) Loans shall be in default if 2 consecutive months'
28 repayments are missed or if a total of 4 months' repayments
29 are missed.
30 (II) Upon default, the entire balance becomes due and
31 payable immediately.

1 (III) If a loan in default is not repaid in full
2 immediately, the loan may be canceled and the outstanding
3 balance treated as a distribution, which may be taxable.

4 (IV) Upon default of a loan, a member shall not be
5 eligible for additional loans.

6 g. Miscellaneous provisions.--

7 (I) All loans must be evidenced by a written loan
8 agreement signed by the member and the Board of Trustees. The
9 agreement shall contain a promissory note.

10 (II) A member's spouse must consent in writing to the
11 loan. The consent shall acknowledge the effect of the loan on
12 the member's account balance.

13 (III) Loans shall be considered a general asset of the
14 fund.

15 (IV) Loans shall be subject to administrative fees to
16 be set by the Board of Trustees.

17 4. After-tax contributions to the DROP.--

18 a. A member may make after-tax contributions to the
19 DROP in the first calendar year only. The maximum amount which
20 may be contributed is the lesser of:

21 (I) The IRS Section 415(c) limit.

22 (II) The amount allowable under IRC Section 401(m).

23 b. After-tax contributions to the DROP will earn
24 interest in the same manner as set forth in sub-subparagraph
25 2.b.

26 c. Distributions to members or their beneficiaries of
27 after-tax contributions may be withdrawn at any time on or
28 after termination of employment. However, payments must be
29 made at least as rapidly as required under subsection (19).

30 d. Loans shall be made against after-tax
31 contributions.

1 Section 2. Paragraph (f) of subsection (6) of section
2 17 of chapter 24981, Laws of Florida, 1947, as amended, is
3 amended to read:

4 Section 17. West Palm Beach Firefighters' Pension
5 Fund.--

6 (6) Disability pensions, medical examinations, return
7 to work, etc.--

8 (f) Exclusions from disability pensions.--No
9 disability pension shall be payable, either as a duty
10 disability pension or as a nonduty disability pension, if the
11 disability is a result of:

12 1. Excessive and habitual use by the member of drugs,
13 intoxicants, or narcotics;

14 2. Injury or disease sustained by the member while
15 willfully and illegally participating in fights, riots, or
16 civil insurrections or while committing a crime;

17 3. Injury or disease sustained by the member while
18 serving in any armed forces; ~~or~~

19 4. Injury or disease sustained by the member after his
20 employment has terminated;~~-~~

21 5. Injury or disease sustained by the member while
22 working for anyone other than the city and arising out of such
23 employment; or

24 6. Injury or disease sustained by the member before
25 coming to work for the city.

26 Section 3. Effective upon this act becoming a law and
27 operating retroactively to January 1, 1995, subsection (18) of
28 section 17 of chapter 24981, Laws of Florida, 1947, as
29 amended, is amended to read:

30 Section 17. West Palm Beach Firefighters' Pension
31 Fund.--

1 (18) Internal Revenue Code limits.--
2 (a) In no event may a member's annual benefit exceed
3 ~~the lesser of:~~
4 1. Ninety one hundred and twenty thousand dollars,
5 adjusted for cost of living in accordance with Internal
6 Revenue Code ("IRC") Section 415(d)., ~~but only for the year in~~
7 ~~which such adjustment is effective; or~~
8 2. ~~One hundred percent of the average annual~~
9 ~~compensation for the member's three highest-paid consecutive~~
10 ~~years; however, benefits of up to \$10,000 a year can be paid~~
11 ~~without regard to the 100 percent limitation if the total~~
12 ~~retirement benefits payable to a member under all defined~~
13 ~~benefit plans (as defined in IRC Section 414(j)) maintained by~~
14 ~~the City for the present and any prior year do not exceed~~
15 ~~\$10,000 and the City has not at any time maintained a defined~~
16 ~~contribution plan (as defined in IRC Section 414(i)), in which~~
17 ~~the employee was a member.~~
18 **(b)3.** If a member has less than 10 years of service
19 with the City, the applicable limitation in paragraph (a) ~~(1)~~
20 ~~or paragraph (2) of this subsection~~ shall be reduced by
21 multiplying such limitation by a fraction, not to exceed one.
22 The numerator of such fraction shall be the number of years,
23 or part thereof, of service with the city; the denominator
24 shall be 10 years.
25 **(c)4.** For purposes of this subsection, "annual
26 benefit" means a benefit payable annually in the form of a
27 straight life annuity with no ancillary or incidental benefits
28 and with no member or rollover contributions. To the extent
29 that ancillary benefits are provided, the limits set forth in
30 paragraph (a) ~~paragraphs (1) and (2) above~~ will be reduced
31 actuarially, using an interest rate assumption equal to the

1 greater of 5 percent or the rate being used for actuarial
2 equivalence, to reflect such ancillary benefits.

3 (d)5. If distribution of retirement benefits begins
4 before age 62, the dollar limitation as described in paragraph
5 ~~<U>(a)</U>~~ shall be reduced using an interest rate assumption
6 equal to the greater of 5 percent or the interest rate used
7 for actuarial equivalence; however, retirement benefits shall
8 not be reduced below \$75,000 if payment of benefits begins at
9 or after age 55 and not below the actuarial equivalent of
10 \$75,000 if payment of benefits begins before age 55. For a
11 member with 15 or more years of service with the city, the
12 reductions described above shall not reduce such member's
13 benefit below \$50,000, adjusted for cost of living in
14 accordance with IRC Section 415(d), but only for the year in
15 which such adjustment is effective. If retirement benefits
16 begin after age 65, the dollar limitation of paragraph (a) ~~(1)~~
17 shall be increased actuarially by using an interest assumption
18 equal to the lesser of 5 percent or the rate used for
19 actuarial equivalence.

20 ~~6. For purposes of this subsection, the "average~~
21 ~~annual compensation for a member's three highest-paid~~
22 ~~consecutive years" shall mean the member's greatest aggregate~~
23 ~~compensation during the period of three consecutive calendar~~
24 ~~years in which the individual was an active member of the~~
25 ~~plan. The sum of the defined benefit fraction and the defined~~
26 ~~contribution fraction for all qualified plans of the City for~~
27 ~~each common participant shall not exceed one.~~

28 (e)(b) Compensation in excess of limitations set forth
29 in Section 401(a)(17) of the Internal Revenue Code shall be
30 disregarded. The limitation on compensation for an "eligible
31 employee" shall not be less than the amount which was allowed

1 to be taken into account hereunder as in effect on July 1,
2 1993. "Eligible employee" is an individual who was a member
3 before the first plan year beginning after December 31, 1995.

4 Section 4. Unless otherwise provided herein, this act
5 shall take effect upon becoming a law.

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