

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 Police Pension and Relief Fund;
6 providing definitions; providing for chapter
7 185 share accounts; providing for a Deferred
8 Retirement Option Plan; providing for
9 investments; providing for Internal Revenue
10 Code 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 (p) of subsection (2) of section
15 16 of chapter 24981, Laws of Florida, 1947, as amended, is
16 amended to read:

17 Section 16. West Palm Beach Police Pension Fund.--

18 (2) Definitions.--The following words or phrases, as
19 used in this act, shall have the following meanings, unless a
20 different meaning is clearly indicated by the context:

21 (p) "Salary" means the fixed monthly compensation paid
22 to a member; compensation shall include those items as have
23 been included as compensation in accordance with past
24 practice. However, the term shall not be construed to include
25 lump sum payments for accumulated leave. On and after January
26 1, 1997, compensation shall mean payment for regular hours
27 worked, overtime payments for services performed for the city,
28 hazardous duty pay, holiday pay, educational supplements,
29 longevity pay, specialized assignment pay, and any payments
30 for approved leave, excluding lump sum payments for
31 accumulated leave such as accrued vacation leave, accrued sick

1 leave, and accrued personal leave. This definition of
2 compensation shall not include off-duty employment performed
3 for vendors other than the City of West Palm Beach per Article
4 37, Salary Plan Section 7 of the Officers' and Sergeants'
5 Contract and Article 36, Salary Plan Section 5 of the
6 Lieutenants' Contract.

7 Section 2. Paragraph (f) of subsection (11) of section
8 16 of chapter 24981, Laws of Florida, 1947, as amended, is
9 amended to read:

10 Section 16. West Palm Beach Police Pension Fund.--

11 (11) Chapter 185 share accounts.--

12 (f) Payment of benefits.--The normal form of benefit
13 payment shall be a lump-sum payment of the entire balance of
14 the member's individual member account or upon the written
15 election of the member, upon a form provided by the board; and
16 payment shall be made:

17 1. Over 3 years in annual installments; or

18 2. In monthly installments over the lifetime of the
19 member or until the entire balance is exhausted. The monthly
20 amount paid will be determined by the fund's actuary in
21 accordance with selections made by the member on a form
22 provided by the Board of Trustees. ~~Alternatively, at the~~
23 ~~direction of the member, the account balance may be used to~~
24 ~~purchase an annuity to be paid monthly, the first payment to~~
25 ~~be made upon approval by the Board of Trustees. The annuity~~
26 ~~must be purchased from an insurer licensed to sell such~~
27 ~~annuities in Florida.~~

28 Section 3. Paragraph (b) of subsection (13) of section
29 16 of chapter 24981, Laws of Florida, 1947, as amended, is
30 amended, and paragraph (c) is added to said subsection, to
31 read:

1 Section 16. West Palm Beach Police Pension Fund.--

2 (13) Deferred Retirement Option Plan (DROP).--

3 (b) Amounts payable upon election to participate in
4 DROP.--

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

8 a. Members may elect to begin to receive payment upon
9 termination of employment or to defer payment of DROP until
10 the latest day as provided under sub-subparagraph c.

11 b. Payments shall be made in either:

12 (I) Lump sum.--The entire account balance will be paid
13 to the retirant upon approval of the Board of Trustees.

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

18 (III) Annuity.--The account balance will be paid out
19 in monthly installments over lifetime of the member or until
20 the entire balance is exhausted. Monthly amount paid will be
21 determined by the fund's actuary in accordance with selections
22 made by the member on a form provided by the Board of
23 Trustees. ~~Alternatively, at the direction of the member, the~~
24 ~~account balance can be used to purchase an annuity to be paid~~
25 ~~monthly, the first payment to be made upon approval by the~~
26 ~~Board of Trustees. The annuity must be purchased from an~~
27 ~~insurer licensed to sell such annuities in Florida.~~

28 c. Any form of payment selected by a police officer
29 must comply with the minimum distribution requirements of the
30 IRC 401(A)(9) and is subject to the requirements of subsection
31 (29) of this act, e.g., payments must commence by age 70 1/2.

1 d. The beneficiary of the DROP participant who dies
2 before payments from DROP begin shall have the same right as
3 the participant in accordance with subsection (17).
4 (c) Loans from the DROP.--
5 1. Availability of loans.--
6 a. Loans are available to members only after
7 termination of employment, provided the member had
8 participated in the DROP for a period of 12 months.
9 b. Loans may only be made from a member's own account.
10 c. There may be no more than one loan at a time.
11 2. Amount of loan.--
12 a. Loans may be made up to a maximum of 50 percent of
13 account balance.
14 b. The maximum dollar amount of a loan is \$50,000,
15 reduced by the highest outstanding loan balance during the
16 last 12 months.
17 c. The minimum loan is \$5,000.
18 3. Limitations on loans.--Loans shall be made from the
19 amounts paid into the DROP and the earnings thereon.
20 4. Term of loan.
21 a. The loan must be for at least 1 year.
22 b. The loan shall be no longer than 5 years.
23 5. Loan interest rate.--
24 a. The interest rate shall be fixed at time the loan
25 is originated for the entire term of loan.
26 b. The interest rate shall be equal to the prime rate
27 published by an established local bank on the last day of each
28 calendar quarter preceding the date of loan application.
29 6. Defaults on loans.--
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1 a. Loans shall be in default if 2 consecutive months'
2 repayments are missed or if a total of 4 months' repayments
3 are missed.
4 b. Upon default, the entire balance becomes due and
5 payable immediately.
6 c. If a loan in default is not repaid in full
7 immediately, the loan may be canceled and the outstanding
8 balance treated as a distribution, which may be taxable.
9 d. Upon default of a loan, a member shall not be
10 eligible for additional loans.
11 7. Miscellaneous provisions.--
12 a. All loans must be evidenced by a written loan
13 agreement signed by the member and the Board of Trustees. The
14 agreement shall contain a promissory note.
15 b. A member's spouse must consent in writing to the
16 loan. The consent shall acknowledge the effect of the loan on
17 the member's account balance.
18 c. Loans shall be considered a general asset of the
19 fund.
20 d. Loans shall be subject to administrative fees to be
21 set by the Board of Trustees.
22 Section 4. Paragraph (b) of subsection (16) of section
23 16 of chapter 24981, Laws of Florida, 1947, as amended, is
24 amended to read:
25 Section 16. West Palm Beach Police Pension Fund.--
26 (16) Conditions applicable to all disability
27 retirants.--
28 (b) Exclusions from disability pensions.--No
29 disability pension shall be payable, either as a duty
30 disability or as a nonduty, if the disability is a result of:
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1 1. Excessive and habitual use by the member of drugs,
2 intoxicants, or narcotics;

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

6 3. Injury or disease sustained by the member while
7 serving in any armed forces;

8 4. Injury or disease sustained by the member after his
9 or her employment has terminated;

10 5. Injury or disease sustained by the member while
11 working for anyone other than the city and arising out of such
12 employment; ~~or-~~

13 6. Injury or disease sustained by the member before
14 coming to work with the city.

15 Section 5. Subparagraph 5. of paragraph (a) of
16 subsection (21) of section 16 of chapter 24981, Laws of
17 Florida, 1947, as amended, is amended to read:

18 Section 16. West Palm Beach Police Pension Fund.--

19 (21) Investments.--

20 (a) The board shall have the power and authority to
21 invest and reinvest the moneys of the fund and to hold,
22 purchase, sell, assign, transfer, and dispose of any
23 securities and investments held in the fund, including the
24 power and authority to employ counseling or investment
25 management services. The aim of the investment policies shall
26 be to preserve the integrity and security of fund principal,
27 to maintain a balanced investment portfolio, to maintain and
28 enhance the value of fund principal, and to secure the maximum
29 total return on investments that is consonant with safety of
30 principal, provided that such investments and reinvestments
31 shall be limited to the following:

1 1. Direct obligations of the United States Government
2 or any agency thereof and any other evidences of indebtedness
3 which are fully guaranteed by the United States Government or
4 any agency thereof for the payments of principal and interest.

5 2. Direct obligations of the State of Florida.

6 3. In debt securities, preferred and common stocks and
7 mutual fund shares subject to the limitations set forth in
8 this section.

9 4. In savings and loan associations, to the extent
10 that deposits are guaranteed by the United States Government
11 or any agency thereof.

12 5. Purchases of securities may include bonds or other
13 evidence of indebtedness, preferred stocks, and common stocks.
14 Operations shall be conducted on the basis of a balanced
15 portfolio, the total thereof invested in preferred stocks
16 shall not aggregate more than 5 percent and the total amount
17 thereof invested in common stocks and mutual funds shall not
18 aggregate more than 60 percent of the fund. Percentages shall
19 be based on cost ~~market~~ value at the end of each reporting
20 period (September 30).

21 Section 6. Subsection (29) of section 16 of chapter
22 24981, Laws of Florida, 1947, as amended, is amended
23 retroactive to January 1, 1995, to read:

24 Section 16. West Palm Beach Police Pension Fund.--

25 (29) Internal Revenue Code limits.--

26 (a) In no event may a member's annual benefit exceed
27 ~~the lesser of:~~

28 1. ~~Ninety~~ one hundred and twenty thousand dollars
29 (adjusted for cost of living in accordance with Internal
30 Revenue Code (IRC) Section 415(d) ~~., but only for the year in~~
31 ~~which such adjustment is effective); or~~

1 ~~2. One hundred percent of the average annual~~
2 ~~compensation for the member's three highest-paid consecutive~~
3 ~~years; however, benefits of up to \$10,000 a year can be paid~~
4 ~~without regard to the 100 percent limitation if the total~~
5 ~~retirement benefits payable to a member under all defined~~
6 ~~benefit plans (as defined in IRC s. 414(j)) maintained by the~~
7 ~~City for the present and any prior year do not exceed \$10,000~~
8 ~~and the City has not at any time maintained a defined~~
9 ~~contribution plan (as defined in IRC s. 414(i)), in which the~~
10 ~~employee was a member.~~

11 (b)3. If a member has less than 10 years of service
12 with the City, the applicable limitation in paragraph(a) ~~(1)~~
13 ~~or paragraph (2)~~of this subsection shall be reduced by
14 multiplying such limitation by a fraction, not to exceed one.
15 The numerator of such fraction shall be the number of years,
16 or part thereof, of service with the city; the denominator
17 shall be 10 years.

18 (c)4. For purposes of this subsection, "annual
19 benefit" means a benefit payable annually in the form of a
20 straight life annuity with no ancillary or incidental benefits
21 and with no member or rollover contributions. To the extent
22 that ancillary benefits are provided, the limits set forth in
23 paragraph (a)~~paragraphs (1) and (2)~~above will be reduced
24 actuarially, using an interest rate assumption equal to the
25 greater of 5 percent or the rate being used for actuarial
26 equivalence, to reflect such ancillary benefits.

27 (d)5. If distribution of retirement benefits begins
28 before age 62, the dollar limitation as described in paragraph
29 ~~(a)(1)~~shall be reduced using an interest rate assumption
30 equal to the greater of 5 percent or the interest rate used
31 for actuarial equivalence; however, retirement benefits shall

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

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

21 (e)(b) Compensation in excess of limitations set forth
22 in Section 401(a)(17) of the Internal Revenue Code shall be
23 disregarded. The limitation on compensation for an "eligible
24 employee" shall not be less than the amount which was allowed
25 to be taken into account hereunder as in effect on July 1,
26 1993. "Eligible employee" is an individual who was a member
27 before the first plan year beginning after December 31, 1995.

28 Section 7. Unless otherwise provided, this act shall
29 take effect upon becoming a law.

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