

STORAGE NAME: h1623a.ca

DATE: April 14, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1623

RELATING TO: The City of West Palm Beach Police Pension Fund

SPONSOR(S): Representative Frankel

COMPANION BILL(S): None

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

- (1) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
 - (2) COMMUNITY AFFAIRS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill amends current law relating to the West Palm Beach Police Pension Fund. It updates actuarial equivalence assumptions by using a more current group annuity mortality table. It amends and expands supplemental pension distributions to clarify the allocation to beneficiaries and disburse a portion of returns in excess of 9 percent to annuitants, subject to statutory limitations on gains/(losses). It allows the position of Police Chief to extend participation in the Deferred Retirement Option Plan (DROP) for three years subject to certain limitations. This bill provides an additional exclusion from disability pensions for injury or disease sustained by a member before employment with the city begins; liberalizes investment options within statutory limitations; increases the lump sum payout of de minimis amounts of retirement income payable from less than \$3,500 to less than \$5,000; and provides for acceptance of rollovers from another qualified plan under the Internal Revenue Code subject to certain conditions.

This bill provides for an effective date of October 1, 1999, which applies retroactively to October 1, 1998.

II. SUBSTANTIVE ANALYSIS:

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.

Deferred Retirement Option Plan (DROP)

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.

Chapters 175 and 185, Florida Statutes

Local police and firefighter pension and retirement plans are reviewed by the Retirement Administrator of Municipal Police Officers' & Firefighters' Retirement Funds of the Bureau of Local Retirement Systems, State Division of Retirement. The statutory authority for this program is in chapters 175 and 185, Florida Statutes. The program was established to provide a uniform retirement system for the benefit of firefighters and police officers. The retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the Municipal Police Officers' Retirement Trust Fund and the Firefighters' Pension Trust Funds.

City of West Palm Beach Police Pension Fund

The City of West Palm Beach, Palm Beach County, Police Pension Fund was established by chapter 24981, Laws of Florida, 1947. The legislative act has been amended several times subsequently in ensuing years.

B. EFFECT OF PROPOSED CHANGES:

- Section 1. Amends s. 16(2)(a), of ch. 47-24981, L.O.F., as amended, updating actuarial equivalence assumptions by referencing the 1983 Group Annuity Mortality Table.
- Section 2. Amends s. 16(12), of ch. 47-24981, L.O.F., as amended, retroactively to September 30, 1998, amending and expanding supplemental pension distribution to clarify the allocation to beneficiaries and disburse a portion of returns in excess of 9 percent to annuitants, subject to statutory limitations on gains/(losses).

Allocations for surviving spouses and surviving dependent children who are eligible to receive supplemental pension distributions shall be $66 \frac{2}{3}$ percent of the years of service earned by the pensioner. Allocations for duty-disability pensioners shall be based upon 25 years of service. Allocations for duty-death beneficiaries (surviving spouse and surviving dependent children) shall be based upon $66 \frac{2}{3}$ percent of 25 years of service.

- Section 3. Amends s. 16(13)(a), of ch. 47-24981, L.O.F., as amended, clarifying the total years a member may participate in the Deferred Retirement Option Plan (DROP); and, notwithstanding any provision of this section to the contrary, allowing the position of Police Chief to extend participation in the DROP three years. For purposes of this subsection, "police chief" means a member who has been promoted from police officer through the ranks of the department to the position of police chief. Any such police chief shall not participate in the DROP beyond the attainment of 33 years of service, and the total years of participation in the DROP shall not exceed 8 years.
- Section 4. Amends s. 16(16)(b), of ch. 47-24981, L.O.F., as amended, adding an additional exclusion from disability pensions for injury or disease sustained by the member before employment with the city begins; and applying this exclusion only in the event of a duty injury or disease.
- Section 5. Amends s. 16(21)(b), of ch. 47-24981, L.O.F., as amended, liberalizing investment options to coincide with s. 185.06, F.S.; and providing that investment in bonds shall be with a corporation holding a rating in one of the three highest classifications by a major rating service.
- Section 6. Amends s. 16(27), of ch. 47-24981, L.O.F., as amended, increasing the lump sum payout of the single sum value of accrued retirement income from less than \$3,500 to less than \$5,000 which the board of trustees, in the exercise of its discretion, may specify be paid in a lump sum.
- Section 7. Amends s. 16(31)(32)(33), of ch. 47-24981, L.O.F., as amended, renumbering current subsections (31) and (32) as subsections (32) and (33), respectively, and adding a new subsection (31), providing for acceptance of rollovers from another qualified pension plan.

A member may roll over all or a part of his or her interest in another qualified plan to the fund, provided all of the following requirements are met:

- (a) Some or all of the amount distributed from the other plan is rolled over to this plan no later than the 60th day after distribution was made from the plan or, if distributions are made in installments, no later than the 60th day after the last distribution was made.
- (b) The amount rolled over to this fund does not include any amount contributed by the member to the plan on a post-tax basis.
- (c) The rollover is made in cash.

(d) The member certifies that the distribution is eligible for a rollover.

(e) Any amount which the trustee accepts as a rollover to this fund shall, along with any earnings allocated to them, be fully vested at all times.

The rollover may also be made to this plan from an individual retirement account qualified under s. 408 of the Internal Revenue Code when the individual retirement account was merely used as a conduit for funds from another qualified plan and the rollover is made in accordance with the rules provided in paragraphs (a) - (e). Amounts rolled over may be segregated from other fund assets. The trustees shall separately account for gains, losses, and administrative expenses of these rollovers as provided for in subsections (11) and (13). In addition, the fund may accept the direct transfer of a member's benefits from another qualified retirement plan. The fund shall account for direct transfers in the same manner as a rollover and shall obtain certification from the member that the amounts are eligible for a rollover or direct transfer to this fund.

Section 8. Provides that this act takes effect October 1, 1999, and applies retroactively to October 1, 1998.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 24981, Laws of Florida, 1941, 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?

No.

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

No.

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

Certain members of the West Palm Beach Police Pension Fund, their beneficiaries, and dependent children may receive enhanced benefits.

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

This bill does not eliminate or reduce an agency or program.

(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?
No.
- b. Does the bill require or authorize an increase in any fees?
No.
- c. Does the bill reduce total taxes, both rates and revenues?
No.
- d. Does the bill reduce total fees, both rates and revenues?
No.
- e. Does the bill authorize any fee or tax increase by any local government?
No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?
No.
- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

The actuarial cost estimate by the consulting actuary expresses the opinion that the proposed amendments will have no material effect on required contributions.

4. Individual Freedom:

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

Members are allowed to roll over their interest in another qualified plan to the Police Pension Fund if certain requirements are met.
- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

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

This bill does not purport 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?

No.

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:

This bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION ANALYSIS:

Please refer to section-by-section analysis under II. B., Effect of Proposed Changes.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? February 1, 1999

WHERE? The Palm Beach Post, West Palm Beach, Palm Beach County, Florida

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN? N/A

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

IV. COMMENTS:

Mr. Brad L. Armstrong, Actuary and Consultant, Gabriel, Roeder, Smith & Company estimates that the bill will have no material effect on required contributions to the fund.

Charles Slavin, Enrolled Actuary for the State of Florida Division of Retirement, Department of Management Services, provided the following comments:

Actuarial Statement of Fiscal Soundness:

1. This bill affects neither the Florida Retirement System (FRS) nor the FRS Trust Fund.
2. This bill complies with the requirements of Article X, Section 14 of the Constitution.
3. This bill complies with the requirements of Chapter 112, Part VII, Florida Statutes.
4. Explanation: Amends various provisions of the current special act. No cost impact. The maximum DROP-participation period is extended 3 years only for the police chief's position; this would seem to be inappropriate public policy.

Temporarily Passed

At its meeting on April 14, 1999, the Committee on Community Affairs temporarily passed the bill at the request of the sponsor.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Jimmy O. Helms

Staff Director:

Jimmy O. Helms

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

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