

STORAGE NAME: h1091a.ca

DATE: April 19, 2000

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

BILL #: HB 1091

RELATING TO: West Palm Beach/Police Pension Fund

SPONSOR(S): Representative Frankel

TIED BILL(S): None

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

- (1) GOVERNMENTAL OPERATIONS (PRC) YEAS 5 NAYS 0
 - (2) COMMUNITY AFFAIRS (PRC) YEAS 10 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill amends current law relating to the West Palm Beach Police Pension Fund.

The bill deletes the requirement for the City's consent for early retirement; permits disability retirees to select the optional forms of benefits, (i.e., life and joint and survivor options); adds a joint and survivor benefit option of 75 percent to the existing options of 100 percent, 66 2/3 percent, and 50 percent of such monthly amounts; removes reference to death benefits being paid in accordance with the plan, and provides that death benefits may be paid, in the discretion of the board, to: the spouse or dependent child or children of the member; the dependent living parent or parents of the member; or the estate of the member; allows Deferred Retirement Option Program (DROP) participants to continue to receive share distributions from the statutory monies, effective for the monies received in calendar year 1999; adds penalty provisions for making a false or misleading statement to obtain a pension benefit; provides that all special laws and parts of special laws, ordinances, or regulations, insofar as they are in conflict or inconsistent with the provisions of this act, are repealed.

The bill appears to meet constitutional and statutory provisions and has a de minimis contribution impact.

See Part V, AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES section, for the effect of the amendment adopted by the Committee on Community Affairs and traveling with the bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. 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, Florida Statutes, 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, Florida Statutes]

Section 112.665(1)(c), Florida Statutes, 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, Florida Statutes, prohibits special acts which conflict with the provisions of part VII of chapter 112, Florida Statutes:

112.67 Special acts prohibited.--Pursuant to s. 11(a)(21), Article 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

Chapter 24981, Laws of Florida, 1947, created a special fund for the Police Department of the City of West Palm Beach, Palm Beach County, to be known as the West Palm Beach Police Pension Fund. This chapter has been subsequently amended, by special act, as needed, to keep the act relating to the fund current.

C. EFFECT OF PROPOSED CHANGES:

This bill amends the West Palm Beach Police Pension Fund created by chapter 24981, Laws of Florida, 1947, as amended to:

- Deletes the requirement for the City's consent for early retirement;
- Permits disability retirees to select the optional forms of benefits, (i.e., life and joint and survivor options);
- Adds a joint and survivor benefit option of 75 percent to the existing options of 100 percent, 66 2/3 percent, and 50 percent of such monthly amounts;
- Removes reference to death benefits being paid in accordance with subsection (11) (g), and provides that death benefits may be paid, in the discretion of the board, to: the spouse or dependent child or children of the member; the dependent living parent or parents of the member; or the estate of the member.
- Allows Deferred Retirement Option Program (DROP) participants to continue to receive share distributions from the Chapter 185, Florida Statutes, moneys, effective for the Chapter 185, Florida Statutes, monies received in calendar year 1999;
- Adds penalty provisions for making a false or misleading statement to obtain a pension benefit;

- Provides that all special laws and parts of special laws, ordinances, or regulations, insofar as they are in conflict or inconsistent with the provisions of this act, are repealed.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends section 16(8)(c) of chapter 24981, Laws of Florida, 1947, as amended, deleting the requirement for the City's consent for early retirement.

Section 2: Amends section 16(9)(e)(1.a) of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-373, Laws of Florida, permitting disability retirees to select optional forms of benefits, (i.e., life and joint and survivor options); deleting language requiring submission of evidence of good health; adding an optional joint and survivor benefit of 75 percent; and adding the estate of the member as a potential beneficiary in the absence of an eligible beneficiary.

Section 3: Amends section 16(13)(a) of chapter 24981, Laws of Florida, 1947, as amended by chapter 99-483, Laws of Florida, deleting language that participation in the first years of enactment of DROP will be extended to those members with 28 years of service in 1992; and providing that a DROP participant shall continue to receive shares of chapter moneys in accordance with subsection (11), Chapter 185, Florida Statutes, share accounts.

Section 4: Amends section 16(16)(d)(1), of chapter 24981, Laws of Florida, 1947, as amended by chapter 93-373, Laws of Florida, providing that a disability retiree may select optional forms of benefits in accordance with paragraph (9)(d); and providing that in the absence of a designated beneficiary, the benefits will be paid to the estate of the retiree.

Section 5: Adds s. 16(33)(d) of chapter 24981, Laws of Florida, 1947, as renumbered by chapters 95-478 and 99-483, Laws of Florida, prohibiting the making of false or misleading statements to obtain retirement benefits; providing it is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or to withhold or conceal material information to obtain any benefit under this plan; providing that a person who violates this prohibition commits a misdemeanor of the first degree, punishable as provided in section 775.082, or section 775.083, Laws of Florida; providing that in addition to any criminal penalty, upon conviction for a violation as described, a participant or beneficiary of this plan may, in the discretion of the board of trustees, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under this plan; and providing that "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

Section 6: Provides that all special laws and parts of special laws, ordinances, or regulations, insofar as they are in conflict or inconsistent with the provisions of this act, are repealed.

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Section 7: Provides an effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 3, 2000

WHERE? The Palm Beach Post

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:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Mr. Brad Armstrong, Actuary and Consultant with Gabriel, Roeder, Smith & Company estimates that the effect of the proposed changes on contributions and obligations is de minimis on the bill as introduced.

Mr. Charles Slavin, Actuary for the Local Retirement Section of the State of Florida Division of Retirement, Division of Management Services, provided the following comments on the bill as introduced:

Actuarial Statement of Fiscal Soundness

1. This bill complies with the requirements of Article X, Section 14 of the Constitution.
2. This bill complies with the provisions of Chapter 112, Part VII, Florida Statutes.
3. The December 14, 1999 actuarial cost impact statement notes a de minimis contribution impact.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Representative Frankel offered one amendment. The amendment is a result of a collective bargaining agreement between the Palm Beach County Police Benevolent Association and the City of West Palm Beach.

According to the Actuarial Impact Statement and Actuarial Cost Estimate, the amendment provides:

- Under subsection (9)(a)1 of the special act, if years of service are equal to or greater than 12.5 as of October 1, 1999, then change the pension accrual rate retroactively 12.5 years and prospectively from 2.5% to 3.0% of final average salary times years of service up to 26 years (plus 1% thereafter) for current DROP members and active members. Retroactive payments, without interest, will be made into the DROP account for up to two years. If years of service are less than 12.5 as of October 1, 1999, then the rate change is for all years.
- Under subsection (12) of the special act, change the minimum return for a supplemental pension distribution from 7% to 8.25% for active members with less than 12.5 years of service as of October 1, 1999.
- Employee contributions are increased from 6.45% to 7.00%.
- Increase assumed investment rate of return from 7.00% to 8.25%.
- Shorten the period for amortizing past and future actuarial gains/(losses) from 30 years to 20 years.
- Future changes in assumed investment rate of return may trigger reversionary benefit accrual patterns.
- City will benefit from changes in the form of a reduced contribution requirement for fiscal year end September 20, 2000 or a credit against future contribution requirements.

Mr. Charles Slavin, Actuary for the Local Retirement Section of the State of Florida Division of Retirement, Division of Management Services, provided the following comments on the strike-everything amendment:

Actuarial Statement of Fiscal Soundness

1. This bill complies with the requirements of Article X, Section 14 of the Constitution.
2. This bill complies with the provisions of Chapter 112, Part VII, Florida Statutes.
3. The March 24, 2000 actuarial cost impact statement notes a reduction in required contribution.

VI. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Jimmy O. Helms

Staff Director:

Jimmy O. Helms

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AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Kyle V. Mitchell

Joan Highsmith-Smith