

By Senator Rossin

35-1181-00

See HB 1089

1 A bill to be entitled
2 An act relating to the City of West Palm Beach,
3 Palm Beach County; revising provisions relating
4 to the West Palm Beach Firefighters Pension
5 Fund; revising the provisions relating to
6 optional forms of retirement income; revising
7 the beneficiary provisions; revising the
8 deferred retirement option plan provisions;
9 revising the disability provisions; imposing
10 penalties for false or misleading statements to
11 obtain benefits; providing an effective date.

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

14
15 Section 1. Paragraphs (g), (h), and (i) of subsection
16 (5) of section 17 of chapter 24981, Laws of Florida, 1947, as
17 amended by chapter 93-374, Laws of Florida, are amended to
18 read:

19 Section 17. West Palm Beach Firefighters Pension
20 Fund.--

21 (5) Service pension.--

22 (g) Optional forms of retirement income.--

23 1.a. In the event of normal, or early, or disability
24 retirement, in lieu of the normal form of retirement income
25 payable as specified in paragraph (a), paragraph (b), or
26 paragraph (c), or subsection (6), and in lieu of the
27 beneficiary benefits as specified in subsection (7), a member,
28 upon written request to the board ~~and submission of evidence~~
29 ~~of good health (except that such evidence will not be required~~
30 ~~if such request is made at least 3 years prior to the date of~~
31 ~~commencement of retirement income),~~ and subject to the

1 approval of the board, may elect to receive a retirement
2 income of equivalent actuarial value payable in accordance
3 with one of the following options:

4 (I) Lifetime option.--A retirement income of a larger
5 monthly amount, payable to the member for his or her lifetime
6 only.

7 (II) Joint and survivor option.--A retirement income
8 of a modified monthly amount, payable to the member during the
9 joint lifetime of the member and a dependent joint pensioner
10 designated by the member, and following the death of either of
11 them, 100 percent, 75 percent, 66 2/3 percent, or 50 percent
12 of such monthly amounts, payable to the survivor for the
13 lifetime of the survivor.

14 b. The member, upon electing any option of this
15 paragraph, shall designate the joint pensioner or beneficiary
16 or beneficiaries to receive the benefit, if any, payable in
17 the event of his death, and shall have the power to change
18 such designation from time to time, but any such change shall
19 be deemed a new election and shall be subject to approval by
20 the Board. Such designation shall name a joint pensioner or
21 one or more primary beneficiaries where applicable. If a
22 member has elected an option with a joint pensioner or
23 beneficiary and his retirement income benefits have commenced,
24 he may thereafter change his designated joint pensioner or
25 beneficiary only twice.

26 c. The consent of a member's joint pensioner or
27 beneficiary to any such change shall not be required. However,
28 the spouse of a married member must consent to any election to
29 waive a joint and survivor benefit by signing the election
30 form before a notary public. The spouse's written consent
31 must acknowledge the effect of such a waiver. Consent of the

1 spouse shall not be required if the spouse cannot be located,
2 or for such other circumstances as may be prescribed by the
3 Secretary of the Treasury of the United States. Any consent
4 by a spouse shall be effective only with respect to such
5 spouse.

6 d. The Board may request such evidence of the good
7 health of the joint pensioner that is being added as it may
8 require, and the amount of the retirement income payable to
9 the member upon designation of a new joint pensioner shall be
10 actuarially redetermined taking into account the age and sex
11 of the former joint pensioner, the new joint pensioner, and
12 the member. Each such designation shall be filed with the
13 Board. In the event that no designated beneficiary survives
14 the member, such benefits as are payable in the event of the
15 death of the member subsequent to his retirement shall be paid
16 as provided in subparagraph (h)2.

17 2. Retirement income payments shall be made under the
18 option elected in accordance with the provisions of this
19 paragraph and shall be subject to the following limitations:

20 a. If a member dies prior to his normal retirement
21 date or early retirement date, whichever first occurs,
22 retirement benefit shall be paid in accordance with subsection
23 (7).

24 b. If the designated beneficiary or beneficiaries or
25 joint pensioner dies before the member's retirement, the
26 option elected shall be canceled automatically and a
27 retirement income of the normal form and amount shall be
28 payable to the member upon his retirement as if the election
29 had not been made, unless a new election is made in accordance
30 with the provisions of this paragraph or a new beneficiary is
31 designated by the member prior to his retirement.

1 c. If a member continues in the employ of the
2 Department after meeting the age and service requirements set
3 forth in paragraph (a) or paragraph (c) and dies prior to his
4 actual retirement, and while an option made pursuant to this
5 sub-subparagraph is in effect, monthly retirement income
6 payments shall be paid, under the option, to a beneficiary or
7 beneficiaries designated by the member in the amount or
8 amounts computed as if the member had retired under the option
9 on the date on which his death occurred.

10 3. No member may make any change in his retirement
11 option after the date of cashing or depositing the first
12 retirement check.

13 (h) Designation of beneficiary.--

14 1. Each member may, on a form provided for that
15 purpose, signed and filed with the board, designate a
16 beneficiary or beneficiaries to receive the benefit, if any,
17 which may be payable in the event of the member's death; and
18 each designation may be revoked by such member by signing and
19 filing with the board a new designation-of-beneficiary form.
20 However, after the benefits have commenced, a retirant may
21 change his or her designation of joint annuitant or
22 beneficiary only twice. If the ~~said~~ retirant desires to change
23 his or her joint annuitant or beneficiary, the retirant ~~he~~
24 shall file with the board a notarized notice of such change
25 either by registered letter or on a form as provided by the
26 board. Upon receipt of a completed change of joint annuitant
27 form or such other notice, the board shall adjust the member's
28 monthly benefit by the application of actuarial tables and
29 calculations developed to ensure that the benefit paid is the
30 actuarial equivalent of the present value of the member's
31 current benefit.

1 2. Absence or death of beneficiary.--If a deceased
2 member fails to name a beneficiary in the manner prescribed in
3 subparagraph 1., or if the beneficiary or beneficiaries named
4 by a deceased member predecease the member, the beneficiary
5 benefits, if any, which may be payable with respect to such
6 deceased member may be paid, in the discretion of the board,
7 ~~either~~ to:

8 a. The spouse or dependent child or children of the
9 member; ~~or~~

10 b. The dependent living parent or parents of the
11 member; ~~or~~

12 c. The estate of the member.

13 (i) Refund of contributions.--In the event a member
14 leaves the employ of the department or dies with less than 10
15 years of credited service, and no service pension, disability
16 pension, or beneficiary benefit is payable, the contributions
17 made by him or her to the fund shall be refunded, without
18 interest (less any disability payments paid to the member), to
19 the member, ~~or~~ in the event of death, to the beneficiary or
20 to the member's estate.

21 Section 2. Effective for share account distributions
22 made for calendar year 1998 from chapter moneys received in
23 July 1999, paragraph (k) of subsection (5) of section 17 of
24 chapter 24981, Laws of Florida, 1947, as amended by chapter
25 99-456, Laws of Florida, is amended to read:

26 Section 17. West Palm Beach Firefighters Pension
27 Fund.--

28 (5) Service pension.--

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

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

31

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

5 b. Election to participate shall be forfeited if not
6 exercised within the first 35 years of combined credited
7 service.

8 c. A member shall not participate in the DROP beyond
9 the time of attaining 37 years of service and the total years
10 of participation in the DROP shall not exceed 5 years. For
11 example:

12 (I) Members with 32 years of credited service at the
13 time of entry shall only participate for 5 years.

14 (II) Members with 33 years of credited service at the
15 time of entry shall only participate for 4 years.

16 (III) Members with 34 years of credited service at the
17 time of entry shall only participate for 3 years.

18 (IV) Members with 35 years of credited service at the
19 time of entry shall only participate for 2 years.

20 d. Upon a member's election to participate in the
21 DROP, he or she shall cease to be a member and shall no longer
22 accrue any benefits under the pension fund, except for the
23 benefits provided under paragraph (j) of this subsection,
24 Chapter 175 share accounts. For all fund purposes, the member
25 becomes a retirant, except that a DROP participant shall
26 continue to receive shares of the chapter moneys in accordance
27 with paragraph (j), Chapter 175 share accounts. The amount of
28 credited service and final average salary shall freeze as of
29 the date of entry into the DROP.

30 2. Amounts payable upon election to participate in the
31 DROP.--

- 1 a. Monthly retirement benefits that would have been
2 payable had the member terminated employment with the
3 department and elected to receive monthly pension payments
4 will be paid into the DROP and credited to the retirant.
5 Payments into the DROP will be made monthly over the period
6 the retirant participates in the DROP, up to a maximum of 36
7 months.
- 8 b. Payments to the DROP earn interest using the rate
9 earned on pension fund assets during the 12-month period
10 ending each September 30th. The rate determined shall be the
11 rate reported to the Division of Retirement pursuant to part
12 VII of chapter 112, Florida Statutes. However, if a member
13 does not terminate employment at the end of participation in
14 the DROP, interest credit shall cease on the current balance
15 and on all future DROP deposits.
- 16 c. No payments will be made from the DROP until the
17 member terminates employment with the department.
- 18 d. Upon termination of employment, participants in the
19 DROP will receive the balance of the DROP account in
20 accordance with the following rules:
- 21 (I) Members may elect to begin to receive payment upon
22 termination of employment or defer payment of the DROP until
23 the latest day under sub-sub-subparagraph (III).
- 24 (II) Payments shall be made in either:
- 25 (A) Lump sum.--The entire account balance will be paid
26 to the retirant upon approval of the Board of Trustees.
- 27 (B) Installments.--The account balance will be paid
28 out to the retirant in three equal payments paid over 3 years,
29 the first payment to be made upon approval of the Board of
30 Trustees.
- 31

1 (C) Annuity.--The account balance will be paid out in
2 monthly installments over the lifetime of the member or until
3 the entire balance is exhausted. Monthly amount paid will be
4 determined by the fund's actuary in accordance with selections
5 made by the member on a form provided by the Board of
6 Trustees.

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

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

14 3. Loans from the DROP.--

15 a. Availability of loans.--

16 (I) Loans are available to members only after
17 termination of employment, provided the member had
18 participated in the DROP for a period of 12 months.

19 (II) Loans may only be made from a member's own
20 account.

21 (III) There may be no more than one loan at a time.

22 b. Amount of loan.--

23 (I) Loans may be made for up to a maximum of 50
24 percent of account balance.

25 (II) The maximum dollar amount of a loan is \$50,000,
26 reduced by the highest outstanding loan balance during the
27 last 12 months.

28 (III) The minimum loan is \$5,000.

29 c. Limitations on loans.--Loans shall be made from the
30 amounts paid into the DROP and the earnings thereon.

31 d. Term of loan.--

- 1 (I) The loan must be for at least 1 year.
2 (II) The loan shall be for no longer than 5 years.
3 e. Loan interest rate.--
4 (I) The interest rate shall be fixed at the time the
5 loan is originated for the entire term of loan.
6 (II) The interest rate shall be equal to the lowest
7 prime rate published by the Wall Street Journal on the last
8 day of each calendar quarter preceding the date of loan
9 application.
10 f. Defaults on loans.--
11 (I) Loans shall be in default if 2 consecutive months'
12 repayments are missed or if a total of 4 months' repayments
13 are missed.
14 (II) Upon default, the entire balance becomes due and
15 payable immediately.
16 (III) If a loan in default is not repaid in full
17 immediately, the loan may be canceled and the outstanding
18 balance treated as a distribution, which may be taxable.
19 (IV) Upon default of a loan, a member shall not be
20 eligible for additional loans.
21 g. Miscellaneous provisions.--
22 (I) All loans must be evidenced by a written loan
23 agreement signed by the member and the Board of Trustees. The
24 agreement shall contain a promissory note.
25 (II) A member's spouse must consent in writing to the
26 loan. The consent shall acknowledge the effect of the loan on
27 the member's account balance.
28 (III) Loans shall be considered a general asset of the
29 fund.
30 (IV) Loans shall be subject to administrative fees to
31 be set by the Board of Trustees.

- 1 4. After-tax contributions to the DROP.--
2 a. A member may make after-tax contributions to the
3 DROP. The maximum amount which may be contributed is the
4 lesser of:
5 (I) The IRS Section 415(c) limit.
6 (II) The amount allowable under IRC Section 401(m).
7 b. After-tax contributions to the DROP will earn
8 interest in the same manner as set forth in sub-subparagraph
9 2.b.
10 c. Distributions to members or their beneficiaries of
11 after-tax contributions may be withdrawn at any time on or
12 after termination of employment. However, payments must be
13 made at least as rapidly as required under subsection (19).
14 d. Loans shall not be made against after-tax
15 contributions.

16 Section 3. Paragraphs (b) and (g) of subsection (6) of
17 section 17 of chapter 24981, Laws of Florida, 1947, as amended
18 by chapter 93-374, Laws of Florida, are amended to read:

19 Section 17. West Palm Beach Firefighters Pension
20 Fund.--

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

23 (b) Nonduty disability pension benefits.--Upon
24 retirement on account of disability as provided in paragraph
25 (a), a member shall receive a disability pension computed
26 according to subparagraph (5)(a)1., notwithstanding that he or
27 she might not have attained age 50 years and might not have 15
28 or more years of service credit; provided, further, if the
29 member has at least 10 years of service credit, the disability
30 pension shall not be less than 25 percent of the member's
31 average monthly salary at the time of disability. A disability

1 retiree may select optional forms of benefits in accordance
2 with paragraph (5)(g).

3 (g) Payment of disability pensions.--Monthly
4 disability retirement benefits shall be payable as of the date
5 the board determines that the member was entitled to a
6 disability pension; however, the first payment shall actually
7 be paid on the first day of the first month after the board
8 determines such entitlement. Any portion due for a partial
9 month shall be paid together with the first payment. If the
10 member recovers from the disability prior to his or her normal
11 retirement date, the last payment shall be the payment due
12 next preceding the date of such recovery ~~or~~, if the member
13 dies without recovering from his or her disability, then the
14 following shall apply:

15 1. Married member.--Beneficiary benefits as set forth
16 in subsection (7) shall be paid if, at the time of death, the
17 member was married or had a dependent child or children or
18 parent or parents; or

19 2. Nonmarried member with 10 years of service or
20 more.--Payments shall be made until his or her death or the
21 120th monthly payment, whichever is later; or

22 3. Nonmarried ~~Non-married~~ member with less than 10
23 years of service.--Payments shall be made until the member's
24 ~~his~~ death.

25
26 Any monthly retirement income payments due after the death of
27 a disabled member shall be paid to the member's designated
28 beneficiary or beneficiaries or the member's estate as
29 provided in paragraph (5)(h) or subsection (7), as applicable.
30

31

1 Section 4. Paragraph (h) of subsection (6) of section
2 17 of chapter 24981, Laws of Florida, 1947, as amended by
3 chapter 93-374, Laws of Florida, is repealed.

4 Section 5. Subsection (7) of section 17 of chapter
5 24981, Laws of Florida, 1947, as amended by chapters 93-374
6 and 96-527, Laws of Florida, is amended to read:

7 Section 17. West Palm Beach Firefighters Pension
8 Fund.--

9 (7) Beneficiary benefits.--

10 (a) Death while in service; 5 years or more
11 (nonduty).--In the event a member with 5 or more years of
12 service credit dies while in the employ of the department, and
13 the board finds his or her death to have occurred as the
14 result of causes arising outside the performance of his or her
15 duties as a firefighter in the employ of the city, the
16 following applicable pensions shall be paid:

17 1. Surviving spouse's benefits.--The surviving spouse
18 shall receive a pension equal to two-thirds of the pension the
19 member would otherwise have been entitled to receive under
20 paragraph (5)(a), as if the member had retired the day
21 preceding the date of his or her death, notwithstanding that
22 the member might not have met the age and service requirements
23 for retirement as specified in subsection (5). Upon the
24 surviving spouse's ~~remarriage or~~ death, the pension shall
25 terminate.

26 2. Benefits for children surviving surviving spouse,
27 etc.--In the event the ~~a~~ deceased member does not leave a
28 surviving spouse, or if the surviving spouse shall ~~remarry or~~
29 die, and the member leaves an unmarried child or children
30 under age 18, each such child shall receive a pension of an
31 equal share of the pension to which said member's surviving

1 spouse was or would have been entitled. Upon any such child's
2 adoption, marriage, death, or attainment of age 18, the
3 child's ~~his~~ pension shall terminate and said child's pension
4 shall be apportioned to the ~~said~~ deceased member's remaining
5 eligible children under age 18.

6 3. Benefits for dependent parents.--In the event a
7 member dies and does not leave a surviving spouse or children
8 eligible to receive a pension provided for in subparagraphs 1.
9 and 2., and the member leaves a parent or parents whom the
10 board finds to have been dependent upon the member for 50
11 percent or more of their financial support, each such parent
12 shall receive a pension of an equal share of the pension to
13 which the member's surviving spouse would have been entitled
14 ~~if the member left a surviving spouse~~. Upon any such parent's
15 remarriage or death, the parent's ~~his~~ pension shall terminate.

16 4. Estate.--In the event a member dies and does not
17 leave a surviving spouse, children, or parents eligible to
18 receive a pension provided for in subparagraph 1.,
19 subparagraph 2., or subparagraph 3., then the benefits
20 remaining, if any, shall be paid to the member's estate.

21 (b) Death in the line of duty.--In the event a member
22 dies while in the employ of the department, and the board
23 finds his or her death to be the natural and proximate result
24 of causes arising out of and in the ~~course of his or her~~
25 actual performance of duty as a firefighter in the employ of
26 the city, the following applicable pensions shall be paid:

27 1. Surviving spouse's benefits.--The surviving spouse
28 shall receive a monthly pension equal to three-fourths of the
29 duty disability pension the member would otherwise have been
30 entitled to receive at the time of his or her death. Upon the
31 surviving spouse's death, the pension shall terminate.

1 2. Benefits for children surviving surviving spouse,
2 etc.--In the event the ~~a~~ deceased member does not leave a
3 surviving spouse, or if the surviving spouse shall die ~~dies~~,
4 and the member leaves an unmarried child or children under age
5 18, each such child shall receive a pension of an equal share
6 of the pension to which the member's surviving spouse was or
7 would have been entitled. Upon any such child's adoption,
8 marriage, death, or attainment of age 18, the child's ~~his or~~
9 ~~her~~ pension shall terminate and said child's pension shall be
10 apportioned to the deceased member's remaining eligible
11 children under age 18.

12 3. Benefits for dependent parents.--In the event a
13 member dies and does not leave a surviving spouse or children
14 eligible to receive a pension provided for in subparagraphs 1.
15 and 2., and the member leaves a parent or parents whom the
16 board finds to have been dependent upon the member for 50
17 percent or more of their financial support, each such parent
18 shall receive a pension of an equal share of the pension to
19 which said member's surviving spouse would have been entitled
20 ~~if the member left a surviving spouse~~. Upon any such parent's
21 remarriage or death, the parent's ~~his or her~~ pension shall
22 terminate.

23 4. Estate.--In the event a member dies and does not
24 leave a surviving spouse, children or parents eligible to
25 receive a pension provided for in subparagraph 1.,
26 subparagraph 2., or subparagraph 3., then the benefits
27 remaining, if any, shall be paid to the member's estate.

28 (c) Death after retirement.--Upon the death of a
29 retirant, the following applicable pensions shall be paid:

30 1. Surviving spouse's benefits.--The surviving spouse
31 shall receive a pension equal to three-fourths of the

1 retirant's ~~member's~~ pension at the time of his or her death.
2 Upon the surviving spouse's ~~remarriage~~ or death, the pension
3 shall terminate.

4 2. Benefits for children, surviving spouse,
5 etc.--In the event a deceased member does not leave a
6 surviving spouse, or if the surviving spouse shall ~~remarry~~ or
7 die, and the member leaves an unmarried child or children
8 under age 18, each such child shall receive a pension of an
9 equal share of the pension to which the member's surviving
10 spouse was or would have been entitled. Upon any such child's
11 adoption, marriage, death, or attainment of age 18, the
12 child's ~~his~~ pension shall terminate and said child's pension
13 shall be apportioned to the deceased member's remaining
14 eligible children under age 18.

15 3. Benefits for dependent parents.--In the event a
16 member dies and does not leave a surviving spouse or children
17 eligible to receive a pension provided for in subparagraphs 1.
18 and 2., and the member leaves a parent or parents whom the
19 board finds to have been dependent upon the member for 50
20 percent or more of their financial support, each such parent
21 shall receive a pension of an equal share of the pension to
22 which the member's surviving spouse would have been entitled
23 ~~if the member left a surviving spouse~~. Upon any such parent's
24 remarriage or death, the parent's ~~his or her~~ pension shall
25 terminate.

26 4. Estate.--In the event a member dies and does not
27 leave a surviving spouse, children, or parents eligible to
28 receive a pension provided for in subparagraph 1.,
29 subparagraph 2., or subparagraph 3., then the benefits
30 remaining, if any, shall be paid to the member's estate.
31

1 Section 6. Paragraph (d) is added to subsection (20)
2 of section 17 of chapter 24981, Laws of Florida, 1947, as
3 amended by chapter 93-374, Laws of Florida, to read:

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

6 (20) Miscellaneous requirements.--

7 (d) False or misleading statements made to obtain
8 retirement benefits prohibited.--

9 1. It is unlawful for a person to willfully and
10 knowingly make, or cause to be made, or to assist, conspire
11 with, or urge another to make, or cause to be made, any false,
12 fraudulent, or misleading oral or written statement or to
13 withhold or conceal material information to obtain any benefit
14 under this plan.

15 2.a. A person who violates subparagraph 1. commits a
16 misdemeanor of the first degree, punishable as provided in
17 section 775.082 or section 775.083, Florida Statutes.

18 b. In addition to any applicable criminal penalty,
19 upon conviction for a violation of subparagraph 1., a
20 participant or beneficiary of this plan may, in the discretion
21 of the Board of Trustees, be required to forfeit the right to
22 receive any or all benefits to which the person would
23 otherwise be entitled under this plan. For purposes of this
24 sub-subparagraph, the term "conviction" means a determination
25 of guilt that is the result of a plea or trial, regardless of
26 whether adjudication is withheld.

27 Section 7. All special laws and parts of special laws,
28 ordinances, or regulations, insofar as they are in conflict or
29 inconsistent with the provisions of this act, are repealed.

30 Section 8. This act shall take effect upon becoming a
31 law.