

By Senator Clary

7-1069A-00

See HB 1715

1 A bill to be entitled
2 An act relating to the Firefighters' Relief and
3 Pension Fund of the City of Pensacola, Escambia
4 County, Florida; amending chapter 21483, Laws
5 of Florida, 1941, as amended; providing for
6 gender neutrality; creating a board secretary;
7 providing for a Director of Finance; revising
8 provisions relating to disability pensions and
9 death benefits for survivors; providing for
10 protection of benefits from certain legal
11 processes; providing for rollover distribution
12 allocation; conforming provisions of local law
13 to chapter 175, Laws of Florida; authorizing
14 additional benefits required by law to be
15 provided by ordinance; providing definitions;
16 providing for repeal of conflicting laws;
17 providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Section 1 of chapter 21483, Laws of
22 Florida, 1941, as amended by chapters 61-2653, 88-536, and
23 91-397, Laws of Florida, is amended to read:

24 Section 1. Board of trustees of the Firefighters'
25 Relief and Pension Fund.--There is hereby created in and for
26 the City of Pensacola a board of trustees of the Firefighters'
27 ~~Firemen's~~ Relief and Pension Fund consisting of five members,
28 two of ~~or~~ whom, unless otherwise prohibited by law, shall be
29 legal residents of the municipality, who shall be appointed by
30 the legislative body of the municipality, and two of whom
31 shall be firefighters of the municipality who shall be elected

1 | by a majority of the firefighters whose names appear on the
2 | rolls as members of the fire department of the municipality.
3 | The fifth member shall be chosen by a majority of the previous
4 | four members as provided for herein, and such person's name
5 | shall be submitted to the legislative body of the
6 | municipality. Upon receipt of the fifth person's name, the
7 | legislative body of the municipality shall, as a ministerial
8 | duty, appoint such person to the board of trustees as its
9 | fifth member. The fifth member shall have the same rights as
10 | each of the other four members appointed or elected as herein
11 | provided. The existing fifth member's term will end on
12 | December 31, 1992, with the new appointee, who may be the same
13 | person, to commence his or her term on January 1, 1993. The
14 | fifth member shall serve as a trustee for a period of 2 years,
15 | and may succeed himself or herself in office. Each resident
16 | member shall serve as trustee for a period of 2 years, unless
17 | sooner replaced by the legislative body at whose pleasure he
18 | or she shall serve, and may succeed himself or herself as a
19 | trustee. One existing resident member's term will end on
20 | December 31, 1991, with the new appointee, who may be the same
21 | person, to commence his or her term on January 1, 1992. The
22 | other existing resident member's term will end on December 31,
23 | 1992, with the new appointee, who may be the same person, to
24 | commence his or her term on January 1, 1993. The terms of the
25 | resident members will continue in this staggered fashion. Each
26 | firefighter member shall serve as trustee for a period of 2
27 | years, unless he or she sooner leaves the employment of the
28 | municipality as a firefighter, whereupon his or her successor
29 | shall be chosen in the same manner as an original appointment.
30 | One existing firefighter member's term will end on December
31 | 31, 1991, with the new appointee, who may be the same person,

1 to commence his or her term on January 1, 1992. The other
2 existing firefighter member's term will end on December 31,
3 1992, with the new appointee, who may be the same person, to
4 commence his or her term on January 1, 1993. The terms of the
5 firefighter members will continue in this staggered fashion.
6 Each firefighter member may succeed himself or herself in
7 office. The board of trustees shall meet at least quarterly
8 each year. The trustees shall by a majority vote elect a
9 chairperson and a secretary ~~chairman~~. The trustees shall not
10 receive any compensation as such, but shall receive expenses
11 and per diem as may be provided by ordinance, consistent with
12 Florida law. The board of trustees hereby created shall
13 perform all of the duties and enjoy all of the rights and
14 powers, heretofore by law or ordinance vested in the pension
15 board of the City of Pensacola and shall be and constitute a
16 legal entity with the power to bring and defend lawsuits of
17 every kind, nature, and description. The city attorney of
18 each municipality shall give advice to the board of trustees
19 in all matters pertaining to its duties in the administration
20 of the municipal firefighter's pension trust fund whenever
21 requested; and the city attorney ~~he~~ shall represent and defend
22 the board as its attorney in all suits and actions at law or
23 in equity that may be brought against it and bring all suits
24 and actions in its behalf that may be required or determined
25 upon by the board. However, if the board of trustees so
26 elects, it may employ independent legal counsel at the pension
27 fund's expense for the purposes contained herein, together
28 with such other professional, technical, or other advisers as
29 the board deems necessary. The Firemen's Relief and Pension
30 Fund heretofore created shall continue to exist exclusively
31 for the purposes provided by this and related legislation, and

1 the responsibility for the administration and proper operation
2 thereof and for effectuating the provisions of law relating
3 thereto is vested in ~~the~~ said board of trustees.

4 Section 2. Section 2 of chapter 21483, Laws of
5 Florida, 1941, is amended to read:

6 Section 2. Board to act as trustees of fund;
7 records.--The Pension Board of the City of Pensacola shall act
8 as trustees of the Firefighters'~~Firemen's~~ Relief and Pension
9 Fund and shall perform the duties herein required. The
10 secretary of the ~~Said pension~~ board shall keep a separate and
11 complete minute book of proceedings of the board in reference
12 to the business and affairs relating to the Firefighters'
13 ~~Firemen's~~ Relief and Pension Fund. Said minute book shall at
14 all times be kept in the office of the Director of Finance
15 ~~Clerk~~ of the City of Pensacola and be open to the public for
16 inspection.

17 Section 3. Section 3 of chapter 21483, Laws of
18 Florida, 1941, is amended to read:

19 Section 3. Powers.--

20 (1) In addition to the other powers and authorities
21 granted to it under Florida law,~~that~~ the pension board shall
22 have power and authority:

23 (a) To invest and reinvest the assets of the
24 Firefighters' Relief and Pension Fund, as provided by Florida
25 law in interest bearing United States, state, county, district
26 ~~or other political subdivision bonds or certificates of~~
27 ~~indebtedness, the surplus funds of the Firemen's Relief and~~
28 ~~Pension Fund, and the accretion shall become part of the fund,~~
29 ~~and the City Clerk-Comptroller or depository shall keep such~~
30 ~~bonds.~~

31

1 (b) To cause to be issued payments from ~~warrants upon~~
2 the Firefighters' Firemen's Relief and Pension Fund pursuant
3 to this act and rules and regulations prescribed by the
4 board. ~~All such payments warrants shall be made consecutively~~
5 ~~numbered, and be signed by the officers of the City of~~
6 ~~Pensacola in the manner now provided by law for the~~
7 ~~disbursement of city funds, and shall state upon their faces~~
8 ~~the purposes for which the warrants are drawn. The Director of~~
9 ~~Finance City Clerk-Comptroller shall maintain an accounting of~~
10 ~~payments made, retain such warrants, when paid, as permanent~~
11 ~~vouchers for disbursement made, and no money shall be~~
12 otherwise drawn from the fund.

13 (c) To finally decide all claims to relief under this
14 act and under the board's rules and regulations.

15 (d) To convert into cash any securities of the fund.

16 (e) To keep a complete record of all receipts and
17 disbursements and of the board's acts and proceedings. Said
18 records shall at all times be kept in the office of the
19 Director of Finance Clerk of the City of Pensacola and be open
20 to the public for inspection; and a statement and audit of the
21 receipts and disbursements shall be made and a copy furnished
22 to each contributor and each pensioner not less than annually
23 ~~once each six (6) months.~~

24 (2) Any and all acts and decisions of the pension
25 board shall be effectuated by vote of a majority of the
26 members of such board; however, no trustee shall take part in
27 any action in connection with such trustee's own participation
28 in the fund.

29 Section 4. Section 4 of chapter 21483, Laws of
30 Florida, 1941, as amended by chapter 24809, Laws of Florida,
31 1947, chapter 31157, Laws of Florida, 1955, and chapters

1 57-1713, 59-1723, 61-2653, 77-632, and 99-463, Laws of
2 Florida, is amended to read:

3 Section 4. Sources of revenue.--There is hereby
4 continued in the City of Pensacola the fund heretofore
5 established and cited as the "Firefighters'~~Firemen's~~ Relief
6 and Pension Fund," to be maintained in the following manner:

7 (a) All sums of money in the existing fund as of July
8 1, 1999, designated "Firemen's Relief and Pension Fund" of
9 said city, shall be and remain therein as assets of the
10 Firefighters' Relief and Pension Fund.

11 (b) By the net proceeds of the 1.85-percent excise or
12 license tax levied and collected under the authority of
13 chapter 19112, Laws of Florida, 1939, as amended, which may be
14 imposed by the City of Pensacola upon certain insurance
15 companies or other insurers against loss by fire and tornado
16 on their gross receipts of premiums from holders of policies,
17 which policies cover property within the corporate limits of
18 such municipality, or any additional amount that may hereafter
19 be levied and collected. This revenue shall be used first to
20 fund the cost-of-living adjustment provision, then the benefit
21 for 75 percent of compensation with 25 years of service on
22 normal pension benefits, and then any remaining amount shall
23 be used for the remaining benefits of the plan. If the receipt
24 of this money is not sufficient to pay all benefits of the
25 plan, nevertheless, all benefits of the plan shall be paid.

26 (c) The City of Pensacola, through its proper
27 officers, shall deduct 11 percent from the compensation of all
28 members of the Firefighters'~~Firemen's~~ Relief and Pension Fund
29 who are not in the Deferred Retirement Option Plan ~~program~~,
30 and shall pay the same to the pension board herein created.
31 Such payments shall be deposited in a special account by the

1 City of Pensacola to be designated "Firefighters'~~Firemen's~~
2 Relief and Pension Fund" and no employee shall have any right
3 to said money so paid into said fund except as otherwise
4 provided in the act. The contributions may be "pickup"
5 contributions, in accordance with the Internal Revenue Code.

6 (d) By all fines and forfeitures imposed and collected
7 from any firefighter ~~fireman~~ because of the violation of any
8 rule and regulation promulgated by the pension board.

9 (e) By all gifts, bequests, and devises when donated
10 for the fund.

11 (f) By all accretions to the fund by way of interest
12 or dividends on bank deposits or otherwise.

13 (g) By mandatory payment by the City of Pensacola of a
14 sum equal to the actuarially required funding amount shown by
15 the ~~Fire~~ pension board's actuary's annual actuarial valuation.
16 Balances in the prepayment reserve account provided for in the
17 annual actuary report shall be drawn down before the city is
18 required to make any contributions.

19 (h) By all other sources or income now or hereafter
20 authorized by law for the augmentation of such fund.

21 Section 5. Section 5 of chapter 21483, Laws of
22 Florida, 1941, as amended by chapter 22434, Laws of Florida,
23 1943, chapter 26143, Laws of Florida, 1949, chapter 27814,
24 Laws of Florida, 1951, and chapters 57-1713, 59-1723, 61-2653,
25 63-1774, 70-889, 77-630, 83-500, 86-453, 87-527, and 99-463,
26 Laws of Florida, is amended to read:

27 Section 5. Basis for compensation.--The pension of all
28 persons entitled thereto, as hereinafter specified, shall be
29 computed upon the basis of their compensation and their years
30 of service in accordance with the following tables:

31

1 (a) Such compensation shall be calculated by the
2 selection from the last 5 years of service immediately
3 preceding retirement of the best 2 of said years, thereby to
4 arrive at the average monthly earnings of such firefighter
5 ~~fireman~~. Based upon such average monthly rate, a pension shall
6 be paid according to the following table, to wit:

- 7 (i) 75 % upon the first.....\$200.00 of compensation
- 8 70 % upon the next.....\$100.00 of compensation
- 9 65 % upon any additional amount; or-

10 (ii) If an employee retires on a normal pension
11 benefit after July 1, 1999, with 25 years of service or more,
12 the employee shall receive a benefit equal to 75 percent of
13 his or her final average monthly compensation.

14 (b) The pension of those firefighters ~~firemen~~ retired
15 hereunder for cause other than disability incurred in line of
16 duty, whose period of service shall be less than 25 years,
17 shall be computed under the table set out in subsection
18 (a)(i), and after said amount shall have been so determined,
19 the sum payable shall be reduced to the percentage set
20 opposite the number of years of service shown in the following
21 schedule, to wit:

22	For 1 year of service or less.....	30%
23	For 2 years of service.....	36%
24	For 3 years of service.....	42%
25	For 4 years of service.....	48%
26	For 5 years of service.....	54%
27	For 6 years of service.....	60%
28	For 7 years of service.....	64%
29	For 8 years of service.....	66%
30	For 9 years of service.....	68%
31	For 10 years of service.....	70%

1	For 11 years of service.....	72%
2	For 12 years of service.....	74%
3	For 13 years of service.....	76%
4	For 14 years of service.....	78%
5	For 15 years of service.....	80%
6	For 16 years of service.....	82%
7	For 17 years of service.....	84%
8	For 18 years of service.....	86%
9	For 19 years of service.....	88%
10	For 20 years of service.....	90%
11	For 21 years of service.....	92%
12	For 22 years of service.....	94%
13	For 23 years of service.....	96%
14	For 24 years of service.....	98%
15	For 25 years of service.....	100%
16	(c) The pension of those <u>firefighters</u> firemen retired	
17	hereunder because of a disability or injuries received in line	
18	of duty, whose period of service shall be less than 25 years,	
19	shall be computed under the table set out in subsection	
20	(a)(i), and after said amount shall have been so determined,	
21	the sum payable shall be reduced to the percentage set	
22	opposite the number of years of service shown in the following	
23	schedule, <u>to wit</u> :	
24	For 1 year of service or less.....	60%
25	For 2 years of service.....	64%
26	For 3 years of service.....	68%
27	For 4 years of service.....	72%
28	For 5 years of service.....	76%
29	For 6 years of service.....	80%
30	For 7 years of service.....	82%
31	For 8 years of service.....	83%

1	For 9 years of service.....	84%
2	For 10 years of service.....	85%
3	For 11 years of service.....	86%
4	For 12 years of service.....	87%
5	For 13 years of service.....	88%
6	For 14 years of service.....	89%
7	For 15 years of service.....	90%
8	For 16 years of service.....	91%
9	For 17 years of service.....	92%
10	For 18 years of service.....	93%
11	For 19 years of service.....	94%
12	For 20 years of service.....	95%
13	For 21 years of service.....	96%
14	For 22 years of service.....	97%
15	For 23 years of service.....	98%
16	For 24 years of service.....	99%
17	For 25 years of service.....	100%

18 (d) Those firefighters ~~firemen~~ whose period of service
19 before attaining the age of 60 years shall exceed 25 years and
20 who retire with a pension calculated under subsection (a)(i)
21 shall receive an increase of 1 percent in the amount of
22 pension for each additional year or major fraction thereof;
23 and in computing any period of service, a major fraction of a
24 year shall be counted as a whole year.

25 (e) Any ~~duly appointed and enrolled~~ firefighter who
26 upon the taking effect of this act, or hereafter, shall have
27 attained the age of 52 years and who retires with a pension
28 calculated under subsection (a) shall be, upon application to
29 the board of trustees, retired on a pension as in this section
30 is provided; and any such person who shall have served as a
31 ~~duly appointed and enrolled~~ firefighter for a period of 25

1 years, but who has not attained the age of 52 years, upon
2 application to the board of trustees shall be retired on a
3 pension as in this section provided except that the amount of
4 such pension shall be reduced in the ratio that the
5 applicant's age bears to 52 years. Any time spent in military
6 or naval service, voluntary or compulsory, or other forms of
7 national service in time of war, or within 1 year thereafter,
8 by any person theretofore employed by said city, shall be
9 deemed equivalent to a like period of actual service in the
10 employment of the city for the purpose of securing the
11 benefits of this act; and, further, any employee who shall be
12 laid off because of illness, reduction of force, or other
13 cause not of the employee's own doing and who shall elect not
14 to withdraw his or her contribution to the said retirement
15 fund, or to return the same if withdrawn, shall be entitled to
16 have the period of such service prior to said layoff added to
17 any subsequent service for the purpose of computing his or her
18 period of service.

19 (f) Any person regularly employed by the City of
20 Pensacola as a ~~duly appointed and enrolled~~ firefighter, who
21 shall while so employed and in line of duty become totally and
22 permanently disabled to perform duties as a firefighter or who
23 shall become so disabled not in the line of duty, through no
24 intentional and self-inflicted injury, shall upon application
25 and the approval thereof by the board of trustees be entitled
26 to and shall receive a pension, to be determined in accordance
27 with the schedules above set out having regard to his or her
28 rate of pay and period of service irrespective of his or her
29 age.

30 (g) Any firefighter ~~employee~~ retired under the
31 provisions of this section, or any widow or widower entitled

1 to a pension under this chapter, shall be entitled to receive
2 not less than \$500 per month, irrespective of the term of
3 service, and of the results of the tables above set out. This
4 provision is applicable to all persons who are receiving
5 benefits from the Firefighters'~~Firemen's~~ Relief and Pension
6 Fund prior to January 1, 1986. They shall receive this benefit
7 as of July 14, 1986.

8 Section 6. Chapter 74-576, Laws of Florida, as amended
9 by chapters 85-486 and 99-463, Laws of Florida, is renumbered
10 as section 6 of chapter 21483, Laws of Florida, 1941, and
11 amended to read:

12 Section 6.1~~6.1~~. Increase in benefits due to consumer
13 price index increases.--

14 (a) A cost-of-living increase in benefits paid
15 pursuant to this act shall be given effective July 1, 1999,
16 and shall be paid annually thereafter. Each annual increase
17 shall have an effective date of July 1. All such increases
18 shall be equal to but no greater than the annual increase in
19 the Consumer Price Index (U) issued by the United States
20 Department of Labor, provided that such increase shall in no
21 event be greater than 3 percent per year. The annual CPI (U)
22 period to be used for calculation of any increase shall end in
23 March of the year of the July 1 increase. The increase in the
24 CPI (U) shall be the change in the values from April 1 to
25 March 31. In the event the United States Department of Labor
26 ceases to issue a CPI (U), the board shall utilize a current
27 CPI index that is the functional equivalent.

28 (b)~~Section 2~~. After June 22, 1974, no person shall
29 transfer creditable service from another retirement system
30 into the Firefighters'~~Firemen's~~ Relief and Pension Fund.
31

1 (c) ~~Section 3.~~ The City of Pensacola, by ordinance,
2 may permit but not require members of the Firefighters'
3 ~~Firemen's~~ Relief and Pension Fund who are eligible, to
4 participate in a Deferred Retirement Option Plan ~~program~~
5 (DROP). The ordinance may include members who are eligible to
6 retire and to receive retirement benefits to remain in the
7 active service of the city until a contractually fixed
8 termination date and to have accumulated for the employee's
9 account from the date the contract is made all benefits which
10 the employee would be eligible to begin receiving on that date
11 and to have those accumulated benefits held for the benefit of
12 the employee until the employee separates from active service.
13 Such ordinance may provide for forfeiture of the accumulated
14 benefits or other penalty if the employee does not comply with
15 the contract. However, if the employee complies in all
16 respects with the terms of the contract, the employee shall
17 receive all retirement benefits the employee would be entitled
18 to under this act upon the employee's actual retirement from
19 the active service of the city.

20 Section 7. Section 5.5 of chapter 21483, Laws of
21 Florida, 1941, as created by chapter 83-500, Laws of Florida,
22 is renumbered as section 7, and amended to read:

23 Section 7.5.5. Disability pensions. --Applications,
24 determinations, awards, and re-evaluations of disability
25 pensions for firefighters ~~firemen~~ shall be governed by the
26 following:

27 (a) Either a firefighter ~~fireman~~, or the employer on
28 behalf of a firefighter ~~fireman~~, must make application for
29 disability retirement complete with medical and other
30 evidentiary material as prescribed by the pension board.

31

1 (b) Upon receipt of an application for disability
2 retirement, the board of trustees shall make a determination
3 of disability, which determination shall be final. The board
4 of trustees shall employ the service of one or more
5 independent, third party agents, such as, but not limited to,
6 a health and disability claims adjusting firm, to evaluate the
7 case and to make a report containing recommended findings and
8 conclusion, which may be approved or disapproved, or modified
9 in the determination of the board of trustees.

10 (c) A firefighter will be considered totally and
11 permanently disabled if, in the opinion of the board of
12 trustees, he or she is wholly prevented from rendering useful
13 and efficient service as a firefighter; and a firefighter will
14 be considered totally and permanently disabled if, in the
15 opinion of the board of trustees, he or she is likely to
16 remain so disabled continuously and permanently from a cause
17 other than as specified in subsection (d).

18 (d) A firefighter will not be entitled to receive any
19 disability retirement income if the disability is a result of:

20 (i) Excessive and habitual use by the firefighter of
21 drugs, intoxicants, or narcotics;

22 (ii) Injury or disease sustained by the firefighter
23 while willfully and illegally participating in fights, riots,
24 or civil insurrections or while committing a crime;

25 (iii) Injury or disease sustained by the firefighter
26 while serving in any armed forces; or

27 (iv) Injury or disease sustained by the firefighter
28 after his or her employment has terminated.

29 (e) ~~(c)~~ The board of trustees, through its third party
30 agents, shall periodically re-evaluate disability pensioners
31 to determine if the condition of total and permanent

1 disability persists. If the pensioner has recovered
2 sufficiently, as determined by the board so that the pensioner
3 is no longer totally and permanently disabled to perform his
4 or her duties as a firefighter ~~fireman~~, and this determination
5 is made within 1 year of the effective date of the award of
6 the pension, said pensioner shall be reinstated to active
7 service in the same rank he or she occupied prior to the award
8 of his or her pension, and the period of such time which said
9 firefighter ~~fireman~~ is out of active service because of
10 disability shall be credited as part of the period of service
11 required for final retirement. If such determination is made
12 more than 1 year after the effective date of the award of the
13 pension, the pensioner shall be placed on an eligible list to
14 be reinstated to his or her position upon the first vacancy in
15 that position. At such time as a pensioner resumes active
16 service, or at such time as a pensioner refuses to accept
17 reinstatement to active service, the payment of pension
18 benefits shall cease. No firefighter ~~fireman~~ who has attained
19 the age of 52 ~~55~~ years or who has been in active service as a
20 firefighter ~~fireman~~ for 25 years, and is drawing a pension,
21 shall be restored to duty by any power or for any cause
22 whatsoever.

23 Section 8. Section 6 of chapter 21483, Laws of
24 Florida, 1941, as amended by chapter 22434, Laws of Florida,
25 1943, and chapters 57-1713 and 86-450, Laws of Florida, is
26 renumbered as section 8, and amended to read:

27 Section 8.6. Automatic retirement.--Any firefighter
28 ~~employee or person~~, subject to the provisions of this act
29 attaining the age of seventy (70) years shall be automatically
30 retired and shall cease to draw his or her compensation as
31 such employee, but shall become immediately entitled to the

1 pension or benefits provided hereby. In the event of doubt as
2 to the attainment of such age, the Civil Service Board shall
3 make inquiry and determine such fact after due notice to
4 interested parties; provided that the provisions of this
5 section shall not become operative until January 1, 1960, the
6 former law remaining in effect until such date.

7 Section 9. Section 9 of chapter 57-1713, Laws of
8 Florida, as amended by chapters 59-1723, 87-527, 89-444, and
9 89-474, Laws of Florida, is renumbered as section 10 of
10 chapter 21483, Laws of Florida, 1941, and amended to read:

11 Section 10.9. Retirement after 10 years' service.--If
12 any firefighter of the City of Pensacola shall, after serving
13 as such for a period of 10 full years or becoming otherwise
14 eligible for retirement, cease to be such firefighter for any
15 cause and shall not make withdrawal of all his or her
16 contributions to the Firefighters'~~Firefighters~~ Relief and
17 Pension ~~Trust~~ Fund as provided by law, or having withdrawn the
18 same, shall return it with 8 percent interest from the date of
19 such withdrawal, he or she shall be eligible to receive the
20 benefits equal to the amount provided in section ~~subsection~~
21 5(a), multiplied by the number of years of service; for this
22 purpose only the number of years of service can be no more
23 than 25 and divided by 25 years upon attaining the age of 52
24 years or becoming eligible for retirement by length of service
25 or otherwise; his or her spouse and children shall in the
26 event of his or her death be likewise so entitled.

27 Section 10. Section 3 of chapter 22434, Laws of
28 Florida, 1943, is renumbered as section 11 of chapter 21483,
29 Laws of Florida, and amended to read:

30 Section 11.3. Power to transfer other unused revenues
31 to fund.--The City of Pensacola, by resolution of the council,

1 is hereby empowered to transfer to the Firefighters'~~Firemen's~~
2 Relief and Pension Fund any revenues budgeted or allocated by
3 law or ordinance for other purposes, whenever it shall appear
4 to the council that the same are not required for the purpose
5 for which they were budgeted or allocated.

6 Section 11. Section 7 of chapter 21483, Laws of
7 Florida, 1941, as amended by chapters 57-1713, 87-527, 89-444,
8 and 89-474, Laws of Florida, is renumbered as section 12, and
9 amended to read:

10 Section 12.7- Refunds upon termination of
11 employment.--In the event that any firefighter resigns or is
12 discharged from the service of the City of Pensacola, he or
13 she shall be entitled to a refund of all the sums he or she
14 theretofore contributed to the Firefighters'~~Firefighters~~
15 Relief and Pension ~~Trust~~ Fund(including "pickup"
16 contributions)and payment thereof shall be made to such
17 former firefighter ~~employee~~ in full satisfaction of any and
18 all claims which he or she or any person claiming by, through,
19 or under him or her may have against said fund.

20 Section 12. Section 8 of chapter 21483, Laws of
21 Florida, as amended by chapter 24809, Laws of Florida, 1947,
22 chapter 27814, Laws of Florida, 1951, and chapters 57-1713,
23 80-580, 85-413, 85-485, and 87-527, Laws of Florida, is
24 renumbered as section 13 and amended to read:

25 Section 13.8- Death benefits for survivors.--

26 (a) In the event of the death of a pensioner while he
27 or she is actually drawing a pension under the provisions of
28 this act, or in the event of the death of any person entitled
29 to the benefits of this act, who shall have been employed as a
30 firefighter ~~duly appointed and enrolled fireman~~, the widow or
31 widower of such person, so long as she or he remains

1 unmarried, shall be paid a monthly pension equal to
2 one-twelfth (1/12th) of seventy-five percent (75%) of the
3 annual pension which the deceased pensioner or person so
4 entitled was receiving or to which he or she would have been
5 entitled in the event of retirement as of the date of his or
6 her death, having regard to his or her period of service and
7 rate of compensation, irrespective of his or her age, which
8 pension shall be for the use of the said widow or widower. If
9 the widow's or widower's pension has been terminated due to
10 remarriage and such marriage ends in the spouse's death or
11 divorce, then the widow's or widower's pension may be restored
12 by the pension board in the same amount as previously provided
13 by provisions of this act.

14 (b) If any person eligible to the benefits of this act
15 (Article XVI), as provided in the preceding subsection, shall
16 at the time of his or her death be survived by one or more
17 legitimate children under the age of 18 years, then such
18 children shall each be entitled to receive a sum equal to 12
19 percent of the annual salary of the deceased, payable in
20 monthly installments to his or her parent or guardian for his
21 or her use, if there be also a widow or widower entitled to
22 receive a pension; but should there be no widow or widower or
23 should such widow or widower remarry, the pension of such
24 children shall be increased to 18 percent of the annual salary
25 aforesaid; provided further, that the total of such pension or
26 allowances for the widow or widower and/or children under the
27 age of 18 years shall not exceed at any time 65 percent of the
28 prevailing wage for the rank the deceased held at the time of
29 his or her death, and such allowance shall each abate
30 proportionately in accordance with such maximum limit.
31 Provided further, that any person that marries a pensioner

1 subsequent to her or his retirement shall be entitled to a
2 reduced pension in proportion to the ratio that her or his
3 cohabitation with the pensioner shall bear to 3 years. After 3
4 years the widow or widower will than have full pension
5 benefits. All pensions to widows or widowers or children shall
6 be computed in accordance with the schedules set forth in this
7 act.

8 (c) In the event that any firefighter shall die under
9 circumstances that there are no survivors eligible to receive
10 benefits under this act, his or her contributions shall be
11 paid to the estate of such person to be distributed under such
12 estate laws.

13 Section 13. Section 9 of chapter 21483, Laws of
14 Florida, 1941, as amended by chapter 26143, Laws of Florida,
15 1949, is renumbered as section 14, and amended to read:

16 Section ~~14.9~~Accidental death or injury benefits.--If
17 an employee shall lose his or her life or later die from
18 injuries received while in the discharge of his or her duties,
19 his or her widow or widower shall, ~~so long as she remains~~
20 ~~unmarried,~~ be paid a monthly pension by the pension board, out
21 of the ~~Firefighters'~~Firemen's Relief and Pension Fund, equal
22 to one-twelfth of seventy-five (75) percent of the annual
23 salary received by the deceased firefighter ~~fireman~~ at the
24 time of his or her death, which pension shall be for the use
25 of the widow or widower and the children, if any are under
26 eighteen years of age, of her or his deceased husband or wife;
27 provided that under no circumstances should the total of such
28 pension amount to more than one hundred twenty-five dollars
29 (\$125.00) monthly. If such firefighter ~~firemen~~ at the time of
30 his or her death shall not be survived by a widow or widower
31 but shall be survived by one or more legitimate children under

1 the age of eighteen years, or if being survived by a widow or
2 widower, she or he shall die before the youngest of said
3 children shall attain the age of eighteen years, then and in
4 either of said events children of such deceased firefighter
5 ~~fireman~~ shall each be entitled to receive a sum, to be fixed
6 in the discretion of the board of trustees, in an amount not
7 to exceed fifteen dollars (\$15.00) per month until such child
8 shall have attained the age of eighteen years; provided,
9 however, that the sum total allowances of children's pensions
10 under this clause shall in no event exceed the sum of
11 forty-five dollars (\$45.00) per month in any one family.

12 Section 14. Section 10 of chapter 21483, Laws of
13 Florida, 1941, is renumbered as section 15, and amended to
14 read:

15 Section ~~15.10~~. Benefits to widows, widowers, and
16 dependents.--If a widow or widower enjoying a pension under
17 any of the provisions of this act shall die, her or his
18 pension shall cease, and if she or he shall remarry while
19 enjoying any such pension, then and in the latter event, her
20 or his pension shall cease and shall not be paid to such widow
21 or widower; provided, however, in the event the deceased
22 firefighter ~~employee~~ shall be survived by one or more
23 legitimate children under the age of eighteen years at the
24 time the widow or widower shall remarry, the pension board
25 may, in its discretion, grant an amount for the support and
26 maintenance of said child or children until said child or
27 children become eighteen years of age, not to exceed ten
28 dollars (\$10.00) per month for each child, in no event to
29 exceed the sum of forty dollars (\$40,00) per month for any one
30 family.

31

1 Section 15. Section 12 of chapter 21483, Laws of
2 Florida, 1941, is renumbered as section 16, and amended to
3 read:

4 Section 16.12. Contributions during service-connected
5 temporary sickness or disability.--Whenever any firefighter
6 duly appointed member of the fire department, on account of
7 any temporary sickness or disability caused or sustained while
8 in the discharge of his or her duty as such member, is be
9 confined to any hospital or to his or her bed, and shall
10 require medical and professional nursing, care, or attention,
11 the pension board may, out of the pension fund, make such
12 contribution to his or her medical and hospital or
13 professional nursing care and expenses as in the board's ~~their~~
14 discretion shall be reasonable.

15 Section 16. Section 13 of chapter 21483, Laws of
16 Florida, 1941, is renumbered as section 17, and amended to
17 read:

18 Section 17.13. Funeral allowance.--In the event of
19 the death of any pensioner while receiving a pension, or in
20 the event of the death of any firefighter ~~duly appointed~~
21 ~~fireman~~, the pension board may, upon the request of the next
22 of kin of the deceased, contribute out of the Firefighters'
23 ~~Firemen's~~ Relief and Pension Fund ~~of said city or town~~, a sum
24 not to exceed two hundred dollars (\$200.00) for funeral
25 expenses, which the pension board may in its discretion pay
26 to the said next of kin or directly to the undertaker. This
27 funeral allowance, however, shall be in addition to any
28 pension allowable under this act.

29 Section 17. Section 15 of chapter 21483, Laws of
30 Florida, is renumbered as section 19, and amended to read:

31

1 Section ~~19.15.~~ Protection of benefits from legal
2 process.--The pensions and other benefits accrued or accruing
3 to any person under this pension plan and the accumulated
4 contributions and the cash securities in the funds created
5 under this plan are exempted from any state, county, or
6 municipal tax and shall not be subject to execution or
7 attachment or to any legal process whatsoever, and shall be
8 unassignable.~~No pension provided for shall be assignable nor~~
9 ~~shall such pension be subject to attachment, garnishment,~~
10 ~~execution or to any other legal process.~~

11 Section 18. Section 16 of chapter 21483, Laws of
12 Florida, 1941, is renumbered as section 20, and amended to
13 read:

14 Section ~~20.16.~~Records to be kept by secretary of the
15 board.--The secretary of the pension board shall keep a record
16 of all persons enjoying a pension under the provisions of this
17 act, in which shall be noted the time when the pension is
18 allowed and when the same shall cease to be paid. And in this
19 book the secretary shall keep a record of all firefighters
20 ~~firemen~~ employed by the municipality and a record shall be
21 kept in such manner as to show the name, address, and time of
22 employment of such firefighters ~~firemen~~ and when such
23 firefighters ~~firemen~~ cease to be employed by the municipality.

24 Section 19. Section 18 of chapter 21483, Laws of
25 Florida, 1941, as amended by chapter 87-527, Laws of Florida,
26 is renumbered as section 22, and amended to read:

27 Section ~~22.18.~~ City Attorney to act as attorney for
28 the board.--The City Attorney shall give advice to the board
29 of trustees in all matters pertaining to its duties whenever
30 requested; and he or she shall represent and defend the board
31 as its attorney in all suits and actions at law or in equity

1 that may be brought against it and bring all suits and actions
2 in its behalf that may be required that are determined upon
3 the board. However, if the board of trustees so elects, it may
4 employ independent legal counsel at the pension fund's expense
5 for the purposes contained herein, together with such other
6 professional, technical, or other advisers as the board deems
7 necessary.

8 Section 20. Section 19 of chapter 21483, Laws of
9 Florida, 1941, as amended by chapter 87-527, Laws of Florida,
10 is renumbered as section 23, and amended to read:

11 Section ~~23.19~~. Depositing of funds and
12 securities.--All funds and securities of the Firefighters'
13 ~~Fireman's~~ Relief and Pension ~~Trust~~ Fund may be deposited by
14 the Board of Trustees with the Director of Finance ~~treasurer~~
15 of the city, acting in a ministerial capacity only, who shall
16 keep the same in a separate fund, and he or she shall be
17 liable for the safekeeping of the same, under the bond given
18 by him or her to the city, and he or she shall be liable in
19 the same manner and to the same extent as he or she is liable
20 for the safekeeping of the funds of the city.

21 Section 21. Section 20 of chapter 21483, Laws of
22 Florida, 1941, as amended by chapters 57-1713, 63-1774,
23 77-630, and 99-463, Laws of Florida, is renumbered as section
24 24, and amended to read:

25 Section ~~24.20~~. Benefits supplemental to workers'
26 compensation; diseases deemed contracted in line of duty.--

27 (1) If any firefighter ~~employee~~ eligible for the
28 benefits of this act shall die under such circumstances as to
29 entitle his or her widow or widower or children to benefits
30 hereunder, such widow, widower, or children shall be entitled
31 to receive such benefits payable to them or any of them; and

1 | in the event of disability of any pensioner, the pensioner
2 | shall be entitled to such pension as is hereby provided.
3 | However, effective January 1, 2000, the total of the pension
4 | and workers' compensation benefits, not to include benefits
5 | provided as a reimbursement of medical costs incurred as the
6 | result of the compensable injury, shall not exceed 100 percent
7 | of the firefighter's ~~employee's~~ average monthly salary. Should
8 | the total of the benefits exceed 100 percent of the average
9 | monthly salary, the pension benefit shall be reduced so as not
10 | to cause the total pension and workers' compensation benefit
11 | to exceed 100 percent. In the event a firefighter ~~an employee~~
12 | eligible for benefits under this act receives a lump-sum
13 | settlement of a workers' compensation disability claim, the
14 | benefits received shall be prorated over a 10-year projected
15 | period for the purposes of the offset of any benefit in excess
16 | of 100 percent. For the purpose of this part, workers'
17 | compensation disability benefits are primary and the
18 | Firefighters' Relief ~~Firemen's Rescue~~ and Pension Fund
19 | benefits are secondary. Since pension benefits are secondary,
20 | the pension benefits shall be reduced in order to observe the
21 | cap. No reduction of benefits shall be implemented until a
22 | firefighter ~~an employee~~ eligible for the benefits under this
23 | act realizes the other benefit sources, workers' compensation
24 | disability benefits. The firefighter ~~employee~~ eligible for
25 | benefits must advise the plan administrator of the receipt of
26 | benefits from a primary source, workers' compensation
27 | disability benefits, within 3 days after the incipient receipt
28 | of the benefits. Any cost-of-living adjustment as provided by
29 | chapter 74-576, Laws of Florida, as amended by chapter 99-463,
30 | Laws of Florida, and this act, shall be calculated on the full
31 | benefit, prior to the offset.

1 (2) Any condition or impairment of health of a
2 firefighter ~~fireman~~ caused by lung diseases, hypertension,
3 heart disease, or hardening of the arteries resulting in total
4 or partial disability or death shall be presumed to have been
5 accidental and suffered in the line of duty unless the
6 contrary be shown by competent evidence, provided, however,
7 that such firefighter ~~fireman~~ shall have successfully passed a
8 physical examination before entering into such service, which
9 examination failed to reveal any evidence of such condition.

10 Section 22. Section 1 of chapter 31158, Laws of
11 Florida, 1955, is renumbered as section 26 of chapter 21483,
12 Laws of Florida, 1941, and amended to read:

13 Section ~~26.1~~ Compiling employment periods for
14 purposes of continuous service.--Whenever it is now provided
15 by law that a firefighter has been employed ~~duly appointed and~~
16 ~~enrolled fireman~~, whether continuously or discontinuously, for
17 the required total period, ~~and~~ he or she shall be entitled to
18 add together such periods of discontinuous service to secure
19 the benefits now granted for continuous service of a like
20 period; provided, however, that before such firefighter
21 ~~fireman~~ may take advantage of this provision, if he or she
22 shall have withdrawn the contributions or any part thereof
23 theretofore paid by him or her into the Firefighters'
24 ~~Firemen's~~ Relief and Pension Fund, he or she shall return to
25 ~~the~~ said fund such sum so withdrawn, and shall do so within a
26 period of six (6) months next succeeding the beginning of his
27 or her last period of employment, or, if he or she be now in
28 such last period, shall repay ~~the~~ said sum within one year
29 after the effective date of this act.

30 Section 23. Section 28 is added to chapter 21483, Laws
31 of Florida, 1941, to read:

1 Section 28. Rollover distributions.--Notwithstanding
2 any provision of the Firefighters' Relief and Pension Fund to
3 the contrary which would otherwise limit a firefighter's or
4 retired firefighter's election (or such deceased individual's
5 surviving spouse's election) under this fund, such firefighter
6 or retired firefighter, or such deceased individual's
7 surviving spouse, may elect, at the time and in the manner
8 prescribed by the plan administrator, to have any portion of
9 an eligible rollover distribution paid directly to an eligible
10 retirement plan specified by such pensioner in a direct
11 rollover.

12 Section 24. Section 29 is added to chapter 21483, Laws
13 of Florida, 1941, to read:

14 Section 29. Additional benefits required by law.--To
15 the extent that the City of Pensacola, as an employer of
16 firefighters and plan sponsor, may be required by law to
17 provide additional benefits to firefighters employed by the
18 city, or their beneficiaries, those additional benefits may be
19 provided by ordinance.

20 Section 25. Section 30 is added to chapter 21483, Laws
21 of Florida, 1941, to read:

22 Section 30. Definitions.--The following words and
23 phrases have the following meanings:

24 (a) "Compensation," "salary," and "earnings" mean the
25 wages paid to a firefighter, longevity pay, overtime pay,
26 station or watch captain pay, special duty pay, in-service
27 sick leave redemption pay (when paid), bonuses, lump-sum
28 payments not paid at termination, inclusive of
29 employee-elective salary reductions or deferrals to any salary
30 reduction, deferred compensation, or tax-sheltered annuity
31 program authorized under the Internal Revenue Code if the

1 firefighter would receive those reductions or deferrals if he
2 or she were not participating in such program, and any other
3 payments required by law to be included in pension
4 calculations.

5 (b) "Deferred Retirement Option Plan" or "DROP" means
6 a retirement option, in which a firefighter may elect to
7 participate, under which a firefighter may retire for all
8 purposes of the plan and defer receipt of retirement benefits
9 into a DROP account while continuing employment with the city.

10 (c) "Direct rollover" means a payment by the
11 Firefighters' Relief and Pension Fund to the eligible
12 retirement plan specified by the firefighter or retired
13 firefighter or such deceased individual's surviving spouse.

14 (d) "Eligible retirement plan" means an individual
15 retirement account described in section 408(a) of the Internal
16 Revenue Code of 1986, an individual retirement annuity
17 described in section 408(b) of the Internal Revenue Code of
18 1986, an annuity plan described in section 403(a) of the
19 Internal Revenue Code of 1986, or a qualified trust described
20 in section 401(a) of the Internal Revenue Code of 1986 which
21 accepts the firefighter's or retired firefighter's eligible
22 rollover distribution. However, in the case of an eligible
23 rollover distribution to the surviving spouse of a deceased
24 firefighter or deceased retired firefighter, an eligible
25 retirement plan is an individual retirement account or
26 individual retirement annuity.

27 (e) "Eligible rollover distribution" means any
28 distribution of all or any portion of the balance to the
29 credit of the firefighter or retired firefighter, except that
30 an eligible rollover distribution does not include: any
31 distribution that is one of a series of substantially equal

1 periodic payments (not less frequently than annually) made for
2 the life (or life expectancy) of the firefighter or retired
3 firefighter or the joint lives (or joint life expectancies) of
4 the firefighter or retired firefighter and such individual's
5 designated beneficiary, or for a specified period of 10 years
6 or more; any distribution to the extent such distribution is
7 required under section 401(a)(9) of the Internal Revenue Code
8 of 1986; and the portion of any distribution that is not
9 includable in gross income.

10 (f) "Enrolled actuary" means an actuary who is
11 enrolled under Subtitle C of Title III of the Employee
12 Retirement Income Security Act of 1974 and who is a member of
13 the Society of Actuaries or the American Academy of Actuaries.

14 (g) "Firefighter" means any person employed by the
15 City of Pensacola fire department who is certified as a
16 firefighter as a condition of employment in accordance with
17 the provisions of s. 633.35, Florida Statutes, and whose duty
18 it is to extinguish fires, to protect life, or to protect
19 property.

20 (h) "Retiree" or "retired firefighter" means a
21 firefighter who has entered retirement status. A firefighter
22 who enters a DROP created by the City of Pensacola for
23 firefighters shall be considered a retiree for all purposes of
24 the Firefighters' Relief and Pension Fund.

25 (i) "Retirement" means a firefighter's separation from
26 city employment as a firefighter with the immediate
27 eligibility for receipt of benefits under the Firefighters'
28 Relief and Pension Fund, including entry into a Deferred
29 Retirement Option Plan.

30 Section 26. All laws or parts of laws in conflict
31 herewith are repealed.

1 Section 27. This act shall take effect upon becoming a
2 law.
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