

By Senator Peaden

1-1136-01

See HB

1 A bill to be entitled

2 An act relating to the General Pension and

3 Retirement Fund of the City of Pensacola,

4 Escambia County; amending chapter 99-474, Laws

5 of Florida, as amended by chapter 2000-470,

6 Laws of Florida; converting said act as amended

7 to an ordinance of the City of Pensacola;

8 revising definitions; revising provisions

9 relating to designation of employee

10 contributions; revising provisions relating to

11 refund of contributions with less than 10 years

12 of credited service; revising provisions

13 relating to disability injury or illness in

14 line of duty and for disability injury or

15 illness not in the line of duty; revising

16 provisions relating to other benefit

17 provisions; providing for protection of

18 benefits from legal process; revising

19 provisions for investment of funds; providing

20 for repeal of conflicting laws; providing an

21 effective date.

22

23 Be It Enacted by the Legislature of the State of Florida:

24

25 Section 1. Section 2 of chapter 99-474, Laws of

26 Florida, as amended by chapter 2000-470, Laws of Florida, is

27 amended to read:

28 Section 2. Definitions.--The words and phrases as used

29 in this act shall have the following meanings unless a

30 different meaning is plainly required by the context:

31

1 (1) Act.--The General Pension and Retirement Fund
2 Special Act.
3 (2) Actuary.--The person, firm, or corporation, one of
4 whose officers shall be a member of the Society of Actuaries
5 and an enrolled actuary, as defined by the Employee Retirement
6 Income Security Act of 1974, authorized by the board of
7 trustees of the fund to render actuarial services to the fund.
8 (3) Average monthly salary.--One twenty-fourth of the
9 salary of the 2 best years of the last 5 years of credited
10 service prior to retirement or death.
11 ~~(4) Bank of national repute.--See investment bank of~~
12 ~~national repute.~~
13 (4)~~(5)~~ Beneficiary.--Person so designated in writing
14 by a member of the general pension plan who may become
15 entitled to receive a refund of contributions made by a member
16 of the plan.
17 (5)~~(6)~~ Best 2 years.--Two separate periods of 365
18 consecutive days.
19 (6)~~(7)~~ Board of trustees, the board, or the general
20 pension board.--The pension board, consisting of six members
21 as provided in this act.
22 (7)~~(8)~~ City.--The City of Pensacola.
23 (8)~~(9)~~ City council.--The city council of the City of
24 Pensacola.
25 (9)~~(10)~~ Code.--Internal Revenue Code of 1986, as
26 amended.
27 (10)~~(11)~~ Credited service years or credited years of
28 service.--A period of service years credited to a member of
29 the plan in which the member has contributed an amount to the
30 General Pension and Retirement Fund, as provided in this act.
31

1 (11)~~(12)~~ Dependent.--The spouse or dependent children
2 under the age of 18 of a member of the plan.
3 (12)~~(13)~~ Dependent children.--A son or daughter under
4 18 years of age who is born in wedlock to a member of the
5 plan; and/or a child under 18 years of age adopted by a member
6 of the plan; and/or a child under 18 years of age dependent
7 upon a member of the plan for support whose dependency is
8 proven to the satisfaction of the board or, in the
9 alternative, whose dependency has been established by a final
10 court order.
11 (13)~~(14)~~ Disability.--Physical or mental impairment
12 which renders an employee partially and permanently or totally
13 and permanently unable to perform the duties of his or her
14 employment or unable to perform any substantial gainful
15 employment.
16 (14)~~(15)~~ ECUA.--Escambia County Utilities Authority.
17 (15)~~(16)~~ General Pension and Retirement Fund, general
18 pension plan, or the plan.--The special fund created
19 exclusively for the purposes provided in this act.
20 ~~(17) Investment bank of national repute.--A bank~~
21 ~~having trust powers or a trust company which is experienced in~~
22 ~~the fiduciary investment of pension funds from more than one~~
23 ~~state.~~
24 (16)~~(18)~~ Line of duty.--Within the scope of employment
25 as an employee of the city during such times as such employee
26 was rendering services to the city.
27 (17)~~(19)~~ Major fraction of a year.--For calculation of
28 benefits in this act, 6 months and 1 day.
29 (18)~~(20)~~ Member of the plan.--An individual who has
30 been credited with a period of service under the plan and has
31 contributed an amount to the plan, as provided in this act.

1 ~~(19)~~(21) Nonemployment.--Any period of time an
2 individual is not employed in any capacity by the City of
3 Pensacola.

4 ~~(20)~~(22) Normal retirement and early retirement.--Any
5 retirement not based upon a disability, illness, or injury.

6 ~~(21)~~(23) Plan.--The General Pension and Retirement
7 Fund.

8 ~~(22)~~(24) Plan administrator.--The Director of Finance
9 of the City of Pensacola.

10 ~~(23)~~(25) Pensioner.--A member of the plan who has
11 drawn or is drawing a pension under the provisions of this
12 act.

13 ~~(24)~~(26) Permanent full-time employee.--A person
14 employed by the city, working an established work period set
15 forth by city policy, and not employed on a part-time,
16 temporary, or specified timeframe basis.

17 ~~(25)~~(27) Refund of contributions.--The distribution of
18 funds contributed by a member of the plan.

19 ~~(26)~~(28) Retiree.--A member of the plan, or a
20 dependent of a member, who has drawn or is drawing a pension
21 under the provisions of this act.

22 ~~(27)~~(29) Salary.--The total cash remuneration paid to
23 the member of the plan by the city for services rendered
24 before all pretax, salary deferral, or salary reduction
25 contributions made to the General Pension and Retirement Fund
26 on behalf of the general pension plan member under section
27 404(h)(2) of the Internal Revenue Code and any code section
28 457 plan and section 125 plan of the city. Unless otherwise
29 provided by the city council, "salary" shall exclude any
30 educational incentive pay, field training pay, certificate
31 pay, specialized duty pay, pistol qualifications pay, clothing

1 allowance, education benefit, accumulated sick leave pay at
2 retirement, accumulated vacation pay at retirement, shift
3 differential pay, nonsubstantiated business expenses, noncash
4 benefits such as employer-provided vehicles, or any other
5 city-provided benefit, severance pay, or similar lump-sum
6 payment made upon separation of service, and any other pay
7 excluded by the city council.

8 (28)~~(30)~~ Service under the plan.--A period of service
9 years credited to a member of the plan, during which the
10 member has contributed an amount to the General Pension and
11 Retirement Fund, as provided in this act.

12 (29)~~(31)~~ Spouse.--Under the laws of the State of
13 Florida, the legally married husband or wife of the member of
14 the plan.

15 (30)~~(32)~~ Surviving spouse.--The legally married
16 husband or wife of a member of the plan who outlives the
17 member of the plan.

18 (31)~~(33)~~ Vested member or vesting right.--A member of
19 the plan who has a right, or the right itself, to future
20 pension benefits as provided in this act.

21 Section 2. Section 11 of chapter 99-474, Laws of
22 Florida, is amended to read:

23 Section 11. Designation of employee contributions.--

24 (1) For the purposes of section 414(h) of the Internal
25 Revenue Code, the contributions made by each employee to the
26 General Pension and Retirement Fund shall be designated as
27 "employer contributions." However, such designation is
28 contingent upon the contributions being excluded from the
29 employee's gross income for federal income tax purposes. Such
30 contributions shall, nevertheless, be subject to refund or
31

1 return to the employee upon termination of employment, or
2 otherwise as provided in this act.

3 (2) If for any reason the employee has received a
4 payment of benefits under the plan at any prior time, the
5 employee's contributions will be reduced for all such prior
6 payments. Such adjustment shall be paid first from after-tax
7 contributions then to the pre-tax contributions of the
8 employee.

9 Section 3. Section 20 of chapter 99-474, Laws of
10 Florida, is amended to read:

11 Section 20. Refund of contributions with less than 10
12 credited years of service, except for disability or death in
13 the line of duty.--

14 (1) In the event any member of the plan with less than
15 10 credited years of service separates from service, except
16 for disability or death in the line of duty, such member or
17 the decedent's dependent or beneficiary shall receive a refund
18 of the member's contributions to the plan.

19 (a) The maximum amount of a refund of contributions
20 shall equal the amount of contributions by the member of the
21 plan less any amount of pension benefit received by the member
22 of the plan and/or the member's dependents.

23 (b) An election of the form ~~Distribution election and~~
24 ~~distribution~~ of a refund of contributions shall be made within
25 90 days after eligibility. If no election is made,
26 distribution shall be in a lump-sum payment.

27 (c) Any refund of the member's contributions under
28 this act shall be in full satisfaction of any and all claims
29 by any person against the General Pension and Retirement Fund.

30 (2) The service years shall be computed on the basis
31 of the total credited service years under the plan, either

1 continuous or by totaling separate or discontinuous periods
2 for the required total period. A major fraction of a year of
3 credited service shall not be computed as a whole year for the
4 purpose of vesting rights.

5 (3) There shall be no minimum years of service
6 requirement for disability or death of a member in the line of
7 duty. In such event, the plan member's dependents are entitled
8 to receive a pension as provided for under this act.

9 Section 4. Paragraph (b) of subsection (5) of section
10 21 of chapter 99-474, Laws of Florida, is amended to read:

11 Section 21. Disability injury or illness in line of
12 duty.--If any member of the plan, due to injury or illness in
13 the line of duty, makes application for retirement and is
14 entitled to the benefits under this act, the General Pension
15 and Retirement Fund of the city shall pay according to the
16 following schedule:

17 (5) In the event any member of the plan becomes
18 disabled in the line of duty while employed, such member shall
19 receive a pension benefit as provided in this section or, upon
20 request, in lieu of a pension benefit, shall receive a refund
21 of the member's contributions to the General Pension and
22 Retirement Fund.

23 (b) An election of the form ~~Distribution election and~~
24 ~~distribution~~ of a refund of contributions shall be made within
25 90 days after eligibility. If no election is made,
26 distribution shall be in a lump-sum payment.

27 Section 5. Paragraph (b) of subsection (5) of section
28 23 of chapter 99-474, Laws of Florida, as amended by chapter
29 2000-470, Laws of Florida, is amended to read:

30 Section 23. Disability injury or illness not in the
31 line of duty.--

1 (5) In the event any member of the plan with less than
2 10 years of credited service under the plan becomes totally or
3 partially disabled not in the line of duty and such member is
4 disabled to such an extent that he or she cannot properly
5 discharge the duties of his or her employment, such member
6 shall receive, in lieu of a pension, a refund of the total
7 amount of his or her contributions to the General Pension and
8 Retirement Fund. A major fraction of a year of credited
9 service shall not be computed as a whole year for the purpose
10 of vesting rights.

11 (b) An election of the form ~~Distribution election and~~
12 ~~distribution~~ of a refund of contributions shall be made within
13 90 days after eligibility. If no election is made,
14 distribution shall be in a lump-sum payment.

15 Section 6. Paragraph (b) of subsection (3) of section
16 24 of chapter 99-474, Laws of Florida, as amended by chapter
17 2000-470, Laws of Florida, is amended to read:

18 Section 24. Other benefit provisions.--

19 (3) In the event any member of the plan with 10 or
20 more credited service years under the plan dies or otherwise
21 separates from service of the city, such member or the
22 deceased member's dependent shall, upon request, receive a
23 refund of the member's contributions to the General Pension
24 and Retirement Fund in lieu of a pension benefit.

25 (b) An election of the form ~~Distribution election and~~
26 ~~distribution~~ of a refund of contributions shall be made within
27 90 days after eligibility. If no election is made,
28 distribution shall be in a lump-sum payment.

29 Section 7. Section 35 of chapter 99-474, Laws of
30 Florida, is amended to read:

31

1 Section 35. Protection of benefits from legal process.
2 The pension and other benefits accrued or accruing to any
3 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, shall be
8 unassignable, and shall not be subject to court orders
9 directed to equitable distribution of marital assets of any
10 member of the plan. The foregoing prohibition shall not apply
11 to legal process for payments of alimony or child support if
12 ordered pursuant to chapter 61, Florida Statutes.~~Reserved.~~

13 Section 8. Section 36 of chapter 99-474, Laws of
14 Florida, is amended to read:

15 Section 36. Investing funds; custodian of securities,
16 contracts with professional money managers ~~investment banks.--~~

17 (1) The pension board shall have the power and
18 authority to invest and reinvest the assets of the General
19 Pension and Retirement Fund in:

20 (a) Time or savings accounts of a national bank, a
21 state bank insured by the Federal Deposit Insurance
22 Corporation, or a savings and loan association insured by the
23 Federal Savings and Loan Insurance Corporation.

24 (b) Obligations of the United States or obligations
25 guaranteed as to principal and interest by the United States.

26 (c) Obligations of municipal authority issued pursuant
27 to the laws of this state; however, for each of the 5 years
28 next preceding the date of investment, the income of such
29 authority available for fixed charges shall have been not less
30 than 1 1/2 times its average annual fixed-charges requirement
31 over the life of its obligations.

1 (d) Bonds, stocks, or other evidences of indebtedness
2 issued or guaranteed by a corporation organized under the laws
3 of the United States, any state or organized territory of the
4 United States, or the District of Columbia; however, the board
5 shall not invest more than 5 percent of its assets in the
6 common stock or capital stock of any one issuing company, nor
7 shall the aggregate investment in any one issuing company
8 exceed 5 percent of the outstanding capital stock of the
9 company, nor shall the aggregate market value of the fund's
10 investments in common stocks exceed 75 percent of the assets
11 of the fund, nor shall the aggregate market value of the
12 fund's investments in all corporate securities exceed 80
13 percent of the assets of the fund.

14 (e) Commingled bank and insurance company temporary
15 investment, stock, and bond funds without regard to the
16 quality restrictions for individual securities contained in
17 paragraph (d).

18 (f) Commingled bank and insurance company real estate
19 funds up to the maximum of 15 percent of assets at market
20 value. Direct ownership and operation of real estate
21 properties are prohibited.

22 (g) Guaranteed insurance contracts.

23 (h) Foreign securities, provided that the aggregate
24 market value of such investments does not exceed 25 percent of
25 the assets of the fund.

26 (2)(a) The pension board and the City of Pensacola are
27 hereby authorized to contract with one or more professional
28 money managers ~~investment banks of national repute~~ to act as
29 agents and corporate trustees of all or any portion of the
30 assets of the fund. Such professional money manager or
31 managers ~~The investment bank or banks~~ shall have full

1 investment powers with respect to said assets subject to the
2 provisions of subsection (1) which limit the types of
3 investments which may be made, and subject to such further
4 restrictions as may be imposed by the board.

5 (b) The city and the board, for the purpose of
6 contracting with one or more professional money manager or
7 managers ~~an investment bank or banks~~ to invest all or any
8 portion of the fund, shall enter into agreements between
9 themselves providing for procedures for selecting, entering
10 into contracts with, and terminating contracts with any such
11 professional money manager or managers ~~investment bank or~~
12 ~~banks~~.

13 (3) In order to accomplish the purpose outlined in
14 subsection (2), the pension board may direct the plan
15 administrator of the city to act as the board's agent in
16 handling the administrative details concerning contracting
17 with any professional money manager ~~the investment bank~~;
18 however, the plan administrator or his or her designee shall
19 report the status of the pension funds to the pension board on
20 a quarterly basis or with greater frequency as requested by
21 the board, and the pension board shall review same and give
22 directions to the plan administrator with respect to the
23 continued contract status of the professional money manager or
24 managers ~~investment bank~~.

25 Section 9. This special act, along with all previously
26 existing special acts pertaining exclusively to this subject,
27 are converted to an ordinance of the City of Pensacola on the
28 effective date of this act. Such ordinance may be modified or
29 repealed only by the City of Pensacola.

30 Section 10. All laws or parts of laws in conflict
31 herewith are hereby repealed.

1 Section 11. This act shall take effect upon becoming a
2 law.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31