

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 937

City of West Palm Beach, Palm Beach County

**SPONSOR(S):** Domino

**TIED BILLS:**

**IDEN./SIM. BILLS:**

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Military & Local Affairs Policy Committee	10 Y, 0 N	Fudge	Hoagland
2)	Government Operations Appropriations Committee	12 Y, 0 N	Delaney	Topp
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

**SUMMARY ANALYSIS**

The Legislation is a local bill that amends the Firefighters’ Pension Fund of the City of West Palm Beach, which was created in 1947. The purpose of the bill is to incorporate technical amendments to bring the Pension Fund in compliance with ch. 2009-97, Laws of Florida and revisions to Federal Law due to the Federal Heroes Earnings Assistance and Relief Act of 2008 (“Heart” Bill).

Major changes include:

- Revises provisions related to the determination of creditable service and benefits for members who die or become disabled while on active military duty.
- Clarifies the methodology for distribution of the funds in the event of termination of the plan.
- Authorizes plan beneficiaries to change their designated joint annuitant or beneficiary up to two times without approval of the Pension Board.
- Requires the Board to divest any holdings in ‘scrutinized’ companies.
- Provides for a variety of administrative procedural changes.

The actuary for the plan indicates that the plan amendments will have an insignificant fiscal impact.

The bill is effective upon becoming law.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

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#### **Current Situation**

The Firefighters' Pension Fund of the City of West Palm Beach was created in 1947.

The Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART) amended the Internal Revenue Code to provide tax benefits and incentives for military personnel and their families. Specific provisions relevant to pension plans include the following requirements:

- Entitle survivors of plan participants who die or become disabled, while on active military duty, to additional benefits and benefit accruals provided under such plans for participants who resume and then terminate employment due to death or disability;
- For benefit and benefit accrual purposes, retirement plans may treat a member who dies or becomes disabled while performing qualified military service as if the member has resumed employment on the day preceding death or disability and terminated employment on the actual date of death or disability;
- Treat differential wage payments to an employee as a payment of wages for income tax purposes. Defines "differential wage payment" as any employer payment to an individual serving in active duty for more than 30 days that represents wages such individual would have received if such individual were performing services for the employer. Treats such payments as compensation for retirement plan purposes.

In addition, in 2009 the Legislature passed ch. 2009-97, L.O.F., which revised provisions for local Police and Firefighter Pension Plans to:

- Revise the terms of office for pension plan board members;
- Authorize plan beneficiaries to change the designated joint annuitant or beneficiary up to two times without approval of the pension plan board;
- Clarify plan termination procedures upon termination of the plan.

## Effect of Proposed Changes

The bill makes several changes to the plan to incorporate the provisions of HEART, to:

- Amend the definition of “salary” to include amounts paid by the city as differential wages to members who are absent from employment while in qualified military service;
- Provide that disability pension benefits would be payable to members for injury or disease sustained while serving in the armed forces ;
- Provide that for benefit and benefit accrual purposes, retirement plans may treat a member who dies or becomes disabled while performing qualified military service as if the member has resumed employment on the day preceding death or disability and terminated employment on the actual date of death or disability.

In addition, based on ch. 2009-97, L.O.F., the bill makes the following changes:

- Authorizes voluntary withholdings, as authorized by the retiree, to pay for benefits being received through the city, pay a certified bargaining agent, or pay for premiums for accident, health, and long-term care insurance for the retiree’s spouse and dependents;<sup>1</sup>
- Authorizes a retired member to change his or her joint pensioner or beneficiary, with a resulting adjustment in the member’s monthly benefit, to ensure that the benefit paid is the actuarial equivalent of the present value of the member’s current benefit and there is no impact on the plan;<sup>2</sup>
- The bill also incorporates the provisions of s. 215.473, F.S., which requires the Board to sell, redeem, divest, or withdraw all publicly traded securities it may have directly in any scrutinized company;<sup>3</sup>
- Clarifies plan termination procedures.<sup>4</sup>

Other additional amendments include:

- Any retirement income payments due after the death of a vested member would be payable to the member’s beneficiary at the Board’s discretion;
- Reducing the threshold for paying retirement income as a one-time lump sum from \$5,000 to \$1,000;
- Allowing rehired members who received a contribution refund to repay the refund, with interest;
- Removing provision specifying notice requirements for certain board meetings;
- Provides for bimonthly refund payments.

### B. SECTION DIRECTORY:

Section 1: Amends the West Palm Beach Firefighters’ Pension Fund of the City of West Palm Beach.

Section 2: Provides an effective date of upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

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<sup>1</sup> s. 185.05(6), F.S.

<sup>2</sup> s. 185.161(1)(c), F.S.

<sup>3</sup> s. 185.06(7), F.S.

<sup>4</sup> s. 185.37, F.S.

IF YES, WHEN? January 6, 2010.

WHERE? In the *Palm Beach Post*, a daily newspaper published in Palm Beach County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

The Economic Impact Statement indicates that the actuarial impact of the amendment is de minimus.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill analysis provided by the Department of Management Services<sup>5</sup> states that:

1. This bill affects neither the Florida Retirement System nor the System's Trust Fund.
2. This bill complies with the requirements of Article X, Section 14 of the Constitution.
3. This bill satisfies the actuarial cost impact provisions of Chapter 112, Part VII, F.S.
4. The changes made by this bill will have a nominal impact on benefit obligations and contributions.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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<sup>5</sup> Department of Management Services Substantive Bill Analysis for HB 937 dated February 22, 2010 (on file with the Full Appropriations Council on General Government & Health Care).