

**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:**

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

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**SUMMARY ANALYSIS**

The West Palm Beach Firefighters Pension Fund was created in 1947.

The bill amends the pension fund plan to address changes to federal and state laws that impact the Plan. Those changes include the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART) which provides targeted tax relief for members of the military and their families including provisions related to death and disability benefits. Also, ch. 2009-97 revised provisions relating to firefighter and municipal police pensions for purposes of determining prior service credit and terms of office for members of both pension plan boards, authorized an increase in terms of office for board members, authorized plan beneficiaries to change the designated joint annuitant or beneficiary up to two times without approval of the pension plan board, and clarified plan termination provisions.

The bill also provides that if retirement income payments are due after the death of a vested member the Board may, in its discretion, make such payments to a member's designated beneficiary or beneficiaries; reduces amount for which a lump sum payment is due; and allows a former member, who withdrew accumulated contributions to recontribute such contributions.

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:

##### **Current Situation**

The West Palm Beach Firefighters Pension Fund was created in 1947.

The Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART) provides target tax relief for members of the military and their families. The provision relevant to pension plans includes:

- A qualified retirement plan must provide that if a participant dies while performing qualified military service, his/her survivors are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would have been provided had he resumed employment and then terminated employment on account of death. § 401(a)(37).
- For 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;
- Treats differential wage payments to an employee as a payment of wages for income tax purposes.

In addition, in 2009 the Legislature passed ch. 2009-97, L.O.F., which revised provisions relating to firefighter and municipal police pensions for purposes of determining prior service credit and terms of office for members of both pension plan boards, authorized plan beneficiaries to change the designated joint annuitant or beneficiary up to two times without approval of the pension plan board, and clarified plan termination provisions.

##### **Effect of Proposed Changes**

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

- Amending 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;
- Providing that the exclusion from disability pension payment for injury or disease sustained while serving in the armed forces, does not apply to members who have become disabled as a result of intervening military service under HEART;
- Providing that a member who dies or becomes disabled while on active duty military service shall be entitled to their benefits even though such member was not reemployed by the City.

The member shall be treated as though he or she were reemployed the day before he or she became disabled or died, were credited with the service he or she would have been entitled to and then either died a nonduty death while employed or became disabled from a nonduty disability.

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

- Revises the terms of office of board members from two to four years.<sup>1</sup>
- Authorizes voluntary withholdings, as authorized by the retiree, to pay for benefits being received through the city, pay the certified bargaining agent, or pay for premiums for accident, health, and long-term care insurance for the retiree's spouse and dependents.<sup>2</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>3</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>4</sup>
- Allows a firefighter to purchase credit for prior federal service.<sup>5</sup>
- Clarifies the method of distribution upon termination of the plan.<sup>6</sup>

The bill also provides that if retirement income payments are due after the death of a vested member the Board may, in its discretion, make such payments to a member's designated beneficiary or beneficiaries. The amount for which a lump sum payment is due is reduced from \$5,000 to \$1,000. Finally, a member who previously served as a police officer with the city, who withdrew accumulated contributions, may recontribute such contributions plus interest. If retirement income payments are due after the death of a vested member the Board may, in its discretion, make such payments to a member's designated beneficiary or beneficiaries.

## B. SECTION DIRECTORY:

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

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

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 6, 2010.

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

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<sup>1</sup> s. 175.061(1)(a), F.S.

<sup>2</sup> s. 175.061(7), F.S.

<sup>3</sup> s. 175.171(1)(c)4., F.S.

<sup>4</sup> s. 175.071(8), F.S.

<sup>5</sup> s. 175.032 (4)(c), F.S.

<sup>6</sup> s. 175.361, F.S.

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>7</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>7</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).