

STORAGE NAME: h0933a.lgva.doc
DATE: April 12, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 933
RELATING TO: Pensacola/Pension & Retirement Fund
SPONSOR(S): Representative Miller and others
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
 - (2) STATE ADMINISTRATION (SGC)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill revises provisions relating to the designation of employee contributions, refunds of contributions with less than 10 years of credited service, death benefits when an employee dies in the line of duty, and disability injury that occurs not in the line of duty.

This bill authorizes the pension board (Board) and the City of Pensacola (City), to contract with professional money managers, and not just traditional banks, in managing assets.

This bill includes new language relating to a protection of benefits from certain creditors and divorce proceedings.

This bill provides for a general repeal of conflicting special acts and a conversion to ordinance of the remainder of special acts.

According to the Economic Impact Statement, this bill does not contain a fiscal impact.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill. (See II.C. "EFFECT OF PROPOSED CHANGES" section.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

State Constitution

Article X, Section 14, Florida Constitution, provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis.

Statutory Authority

The Legislature adopted Part VII, Chapter 112, F.S., to implement the provisions of Article X, Section 14, Florida Constitution. Part VII, Chapter 112, F.S., also establishes minimum standards for operating and funding public employee retirement systems and plans.

Local police and firefighter pension and retirement plans are reviewed by the Retirement Administrator of Municipal Police Officers and Firefighters Retirement Funds, of the Bureau of Local Retirement Systems, State Division of Retirement. Chapters 175 and 185, F.S. provide statutory authority for this program. The program was established to provide a uniform retirement system for the benefit of firefighters and police officers. The retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the Municipal Police Officers Retirement Trust Funds and the Firefighters Pension Trust Funds.

City of Pensacola General Pension and Retirement Fund

The General Pension and Retirement Fund (Fund) of the City of Pensacola was created by special act in 1961, through ch. 61-2655, L.O.F. Since that date, the act has been amended twenty-seven times, through chs. 65-2090, 65-2096, 67-1902, 67-3576, 72-653, 72-654, 78-589, 79-553, 82-390, 83-499, 83-500, 84-429, 84-509, 86-450, 86-452, 87-532, 88-520, 90-471, 90-495, 91-367, 92-246, 92-248, 96-506, 97-368, 99-462, 99-474, and 2000-470, L.O.F.

Ch. 61-2655, L.O.F., as amended, provides for the following:

- The Fund provides for retirement, disability, and death benefits for general employees;

- A pension board (Board), consisting of six members, is charged with administering and operating the Fund, adopting rules and regulations, and cause subpoenas to be issued and require witness attendance and production of documents;
- Provisions are included relating to the buy back of credited time and the crediting of military service, and disability pensions;
- Normal retirement is available to employees, who are 55 years old, with at least 20 years of credited service, or 30 years of service, regardless of age, or 10 years of service at 60 years of age;
- Early retirement is available, at a reduced rate, to employees reaching 55 with 25 years of service;
- An employee who separates from service prior to 10 years of service is eligible to receive a refund of contributions;
- Dependents or beneficiaries are eligible to receive benefits when the employee died in the line of duty;
- Disability retirement is available to an employee who is injured while not in the line of duty;
- A cost of living increase is added biennially to benefits;
- Certain employees are eligible to participate in the Deferred Retirement Option Plan (DROP), if the City authorizes, through ordinance;
- The Board has the power to invest Fund assets in a national bank, an FDIC state bank, or a savings and loan association;
- The Board and the City are authorized to contract with nationally-known investment banks, who will act as agents and corporate trustees over the assets of the Fund; and
- The City is authorized to increase employee benefits, through ordinance.

C. EFFECT OF PROPOSED CHANGES:

House Rule 5.6(b)

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill.

Section 61.076, F.S., provides for distribution of retirement plans upon marital dissolution, in part, as follows:

All vested and nonvested benefits, rights, and funds accrued during the marriage in retirement, pension, profit-sharing, annuity, deferred compensation, and insurance plans and programs are marital assets subject to equitable distribution. (s. 61.076 (1), F.S.)

Section 35 of the bill excludes pensions and other benefits from the marital assets, as used to calculate an equitable distribution in a divorce proceeding, unless for alimony or child support. This provision appears to directly contradict s. 61.075 (1), F.S.

Additionally, s. 166.021(4), F.S., requires a referendum of the electors whenever rights of municipal employees are affected. This bill does not provide for a referendum.

Therefore, this bill appears to create an exception to general law in two respects.

Bill Impact

This bill expands the options of the Board and the City to invest money and contract for an agent or trustee, by authorizing contracts and investments with professional money managers. The term professional money manager is not defined.

This bill reduces an employee's contributions, when the employee has previously received a payment of benefits under the plan.

Regarding a refund of contributions with less than 10 years of service, this bill clarifies that there is no minimum years of service required, when the member is disabled or dies in the line of duty.

A pension and other benefits under this act are protected from tax and creditor liens, and are not considered to be marital assets, for the purpose of determining equitable distribution in divorce proceedings, unless for alimony or child support.

This bill converts all special acts relating to the Fund to ordinance, and provides for general repeal all conflicting acts.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 2 of ch. 99-474, L.O.F., as amended by ch. 2000-470, L.O.F., to provide as follows: deletes the terms bank of national repute and investment bank of national repute from definitions, and renumbers subsequent sections.

Section 2. Amends s. 11 of ch. 99-474, L.O.F., to provide as follows: regarding employee contributions, if an employee receives a payment of benefits under the plan at any prior time, the employee's contributions are reduced for all prior payments, adjusted first from after-tax contributions, and then pre-tax contributions.

Section 3. Amends s. 20 of ch. 99-474, L.O.F., to provide clarifying language regarding a refund of contributions to an employee with less than 10 years of credited service, provides that there is no minimum year of service requirement for disability or death of a member in the line of duty and clarifies that the member's dependents are eligible to receive a pension.

Section 4. Amends paragraph (b) of subsection (5) of s. 21 of ch. 99-474, L.O.F. to clarify language relating to a refund of contributions upon retirement, due to disability in the line of duty.

Section 5. Amends paragraph (b) of subsection (5) of s. 23 of ch. 99-474, L.O.F., as amended by 2000-470, L.O.F., to provide clarifying language relating to a refund of contributions upon retirement, due to disability not in the line of duty.

Section 6. Amends paragraph (b) of subsection (3) of s. 24 of ch. 99-474, L.O.F., as amended by ch. 2000-470, L.O.F., to provide clarifying language relating to a refund of contributions upon retirement, when an employee dies or separates from service to the city.

Section 7. Amends s. 35 of ch. 99-474, L.O.F., to provide that benefits are protected in the following manner: the pension and other benefits, including accumulated contributions and cash securities in pension funds are exempt from state, county, or municipal tax, and are not reachable by creditors, are not assignable, and are excluded from marital assets, during a court's consideration of equitable distribution of marital assets, unless for alimony or child support.

Section 8. Amends s. 36 of ch. 99-474, L.O.F., to authorize the pension board and the City of Pensacola to enter into investment contracts with professional money managers.

Section 9. Converts this special act, and all others relating solely to this subject, to an ordinance of the City of Pensacola on the effective date of this act and provides that only the City of Pensacola can modify or repeal this ordinance.

Section 10. Provides for repeal of all laws, in whole or in part, that conflict with this act.

Section 11. Provides for an effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

February 2, 2001

WHERE?

The Pensacola News Journal

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

According to the Economic Impact Statement, this bill does not contain a fiscal impact. The EIS notes that this bill will authorize the plan's assets to be invested with a larger pool of money managers in order to receive better returns on investments.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

Staff with the Committee on Local Government and Veterans Affairs advised the city attorney, prior to filing the bill, to include language providing for a referendum or some alternative, to satisfy s. 166.021(4), F.S., and to include specific repeals for clarification. The bill as filed, does not reflect that these changes are included.

The Division of Retirement prepared a report, which reads, in part, as follows:

This bill affects neither the Florida Retirement System nor the Florida Retirement System's Trust Fund. The bill does not affect any current benefit provisions, does not propose any new or

STORAGE NAME: h0933a.lgva.doc

DATE: April 12, 2001

PAGE: 6

increased benefits and does not change any funding provisions. Accordingly, this bill is neither affected by the requirements of Article X, Section 14 of the Constitution nor by the provisions of Chapter 112, Part VII, Florida Statutes. There are no actuarial or benefit issues associated with this bill.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Cindy M. Brown

Joan Highsmith-Smith