

1 A bill to be entitled
 2 An act relating to Firefighters' Relief and Pension
 3 Fund of the City of Pensacola, Escambia County;
 4 amending chapter 21483, Laws of Florida, 1941, as
 5 amended; providing for compliance with applicable
 6 internal revenue code requirements; adding optional
 7 forms of benefits; providing for retirement after 10
 8 years of service; providing for death benefits for
 9 survivors; providing for the protection of benefits
 10 from any legal process; providing for rollover
 11 distributions; providing for additional benefits
 12 required by law; providing definitions; providing for
 13 maximum pension; providing for plan termination;
 14 providing for forfeitures; providing an effective
 15 date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Subsections (h) through (o) are added to
 20 section 5 of chapter 21483, Laws of Florida, 1941, as amended by
 21 chapter 2000-468, Laws of Florida, to read:

22 Section 5. Basis for compensation.—The pension of all
 23 persons entitled thereto, as hereinafter specified, shall be
 24 computed upon the basis of their compensation and their years of
 25 service in accordance with the following tables:

26 (h) Any firefighter who has attained the age of 50 years
 27 and has served as a firefighter for the City of Pensacola for a
 28 period of 10 continuous years, upon application to the board of

HB 1425

2012

29 trustees of the Firefighters' Relief and Pension Fund, shall be
30 retired on a pension as provided in Part 1 (Charter and Related
31 Special Acts), Subpart B (Related Special Acts), Article VI,
32 Section 5(a) of the Code of the City of Pensacola; provided,
33 that the amount of such pension shall be reduced by 3 percent
34 for each year by which the firefighter's age at retirement
35 precedes the age of 55. The amount of such monthly benefit shall
36 be reduced to take into account the firefighter's younger age
37 and the earlier commencement of such benefits.

38 (i) If after 10 years of service, a firefighter suffers a
39 total and permanent disability that is not suffered in the line
40 of duty and the firefighter retires, the firefighter's monthly
41 benefit shall be the accrued normal retirement benefit, but
42 shall not be less than 25 percent of the firefighter's average
43 monthly salary at the time of disability.

44 (j) The benefit payable to a firefighter who retires from
45 the service of the city due to total and permanent disability as
46 a direct result of a disability that occurred in the line of
47 duty shall be the accrued normal retirement benefit, payable for
48 10 years certain and life, but shall not be less than 42 percent
49 of the firefighter's average monthly salary at the time of
50 disability.

51 (k) The amount of monthly retirement income payable to a
52 firefighter who retires on or after the firefighter's normal
53 retirement date shall be, at a minimum, an amount equal to the
54 number of the firefighter's years of credited service multiplied
55 by 2 percent of the firefighter's average final compensation as
56 a firefighter.

HB 1425

2012

57 (1) In the event that a firefighter dies after retirement
58 but before the firefighter has received retirement benefits for
59 a period of 10 years, the same monthly benefit will be paid to
60 the beneficiary or beneficiaries designated by the firefighter
61 for the balance of such 10-year period, when the firefighter is
62 not survived by a widow or widower entitled to receive spousal
63 benefits. Such beneficiary designation must be in writing,
64 received, and approved by the trustees before the firefighter's
65 death.

66 (m) If a firefighter continues in the service of the city
67 beyond the firefighter's normal retirement date and dies before
68 the firefighter's date of actual retirement, without either:

69 (1) Leaving a widow or widower entitled to receive spousal
70 benefits; or

71 (2) Affirmatively electing to receive an alternate form of
72 retirement income permissible under the Plan,

73
74 monthly retirement income payments will be made for a period of
75 10 years to the beneficiary or beneficiaries designated by the
76 firefighter as if the firefighter had retired on the date on
77 which the firefighter's death occurred. Such beneficiary
78 designation must be in writing, received, and approved by the
79 trustees before the firefighter's death.

80 (n) (1) In lieu of the amount and form of retirement income
81 payable in the event of normal or early retirement as specified
82 in this section, a firefighter, upon written request to the
83 board of trustees, before receiving any retirement income or
84 benefit from the Plan, and subject to the approval of the board

HB 1425

2012

85 of trustees, may elect to receive a retirement income or benefit
86 of equivalent actuarial value as calculated under section
87 175.162, Florida Statutes, payable in accordance with one of the
88 following options:

89 a. A retirement income of a larger monthly amount, payable
90 to the firefighter for his or her lifetime only.

91 b. A retirement income of a modified monthly amount,
92 payable to the firefighter during the joint lifetime of the
93 firefighter and a joint pensioner designated by the firefighter,
94 and after the death of either of them, 100 percent, 75 percent,
95 66 and 2/3 percent, or 50 percent of such monthly amounts
96 payable to the survivor for the lifetime of the survivor.

97 c. Such other amount and form of retirement payment or
98 benefits as, in the opinion of the board of trustees, will best
99 meet the circumstances of the retirement of the firefighter.

100 1. The firefighter upon electing any option under this
101 section will designate the joint pensioner or beneficiary or
102 beneficiaries to receive the benefit, if any, payable under the
103 Plan in the event of his or her death, and will have the power
104 to change such designation from time to time, but any such
105 change shall be deemed a new election and will be subject to
106 approval by the board of trustees. Such designation will name a
107 joint pensioner or one or more primary beneficiaries where
108 applicable. If a firefighter has elected an option with a joint
109 pensioner or beneficiary and his or her retirement income
110 benefits have commenced, the firefighter may thereafter change
111 the designated joint pensioner or beneficiary, but only if the
112 board of trustees consents to such change and if the joint

HB 1425

2012

113 pensioner last previously designated by the firefighter is alive
114 when the firefighter files with the board of trustees a request
115 for such change.

116 2. The consent of a firefighter's joint pensioner or
117 beneficiary to any such change shall not be required.

118 3. The board of trustees may request such evidence of the
119 good health of the joint pensioner that is being removed as it
120 may require and the amount of the retirement income payable to
121 the firefighter upon designation of a new joint pensioner shall
122 be actuarially redetermined, taking into account the age and sex
123 of the former joint pensioner, the new joint pensioner, and the
124 firefighter. Each such designation will be made in writing on a
125 form prepared by the board of trustees and on completion will be
126 filed with the board of trustees. In the event that no
127 designated beneficiary survives the firefighter, such benefits
128 as are payable in the event of the death of the firefighter
129 subsequent to his or her retirement shall be paid as provided in
130 subsection (o).

131 (2) Retirement income payments made under the option
132 elected in accordance with the provisions of this section shall
133 be subject to the following limitations:

134 a. If a firefighter dies before his or her normal
135 retirement date or early retirement date, whichever first
136 occurs, no retirement benefit will be payable under the option
137 to any person, but the benefits, if any, will be determined
138 under section 13 or section 14 of the Plan or section 175.201,
139 Florida Statutes, as the case may be.

HB 1425

2012

140 b. If the designated beneficiary or beneficiaries or joint
141 pensioner dies before the firefighter's retirement under the
142 Plan, the option elected will be canceled automatically and a
143 retirement income of the normal form and amount will be payable
144 to the firefighter upon retirement as if the election had not
145 been made, unless a new election is made in accordance with the
146 provisions of this section or a new beneficiary is designated by
147 the firefighter before retirement and within 90 days after the
148 death of the beneficiary.

149 c. If both the retired firefighter and the beneficiary or
150 beneficiaries designated by him or her die before the full
151 payment has been effected under any option providing for
152 payments for a period certain and life thereafter, made pursuant
153 to the provisions of subparagraph (n)(1)c., the board of
154 trustees may, in its discretion, direct that the actuarial
155 equivalent value of the remaining payments be paid in a lump sum
156 and in accordance with subsection (o).

157 d. If a firefighter continues beyond his or her normal
158 retirement date and dies before actual retirement and while an
159 option made pursuant to the provisions of this section is in
160 effect, monthly retirement income payments will be made, or a
161 retirement benefit will be paid, under the option to a
162 beneficiary or beneficiaries designated by the firefighter in
163 the amount or amounts computed as if the firefighter had retired
164 under the option on the date on which the death occurred.

165 (3) No firefighter may make any change in his or her
166 retirement option after the date of cashing or depositing the
167 first retirement check.

HB 1425

2012

168 (o) (1) Each firefighter may, on a form provided for that
169 purpose, signed and filed with the board of trustees, designate
170 a choice of one or more persons, named sequentially or jointly,
171 as his or her beneficiary or beneficiaries to receive the
172 benefit, if any, which may be payable in the event of his or her
173 death; and each designation may be revoked by such firefighter
174 by signing and filing with the board of trustees a new
175 designation-of-beneficiary form. A firefighter may change his or
176 her beneficiary at any time.

177 (2) If no beneficiary is named in the manner provided by
178 paragraph (1), or if no beneficiary designated by the
179 firefighter survives him or her, the death benefit, if any,
180 which may be payable under the Plan with respect to such
181 deceased firefighter shall be paid by the board of trustees to
182 the estate of such deceased firefighter, provided that the board
183 of trustees, in its discretion, may direct that the actuarial
184 equivalent value of the remaining monthly income payments be
185 paid in a lump sum. Any payment made to any person pursuant to
186 this section shall operate as a complete discharge of all
187 obligations under the Plan with regard to the deceased
188 firefighter and any other persons with rights under the Plan and
189 shall not be subject to review by anyone but shall be final,
190 binding, and conclusive on all persons ever interested
191 hereunder.

192 (3) If a firefighter has elected an option with a joint
193 pensioner and retirement income benefits have commenced, the
194 firefighter may transfer or change the designated beneficiary at
195 any time, but may only change the joint pensioner twice.

196 Section 2. Section 8 of chapter 21483, Laws of Florida,
 197 1941, as amended by chapter 2000-468, Laws of Florida, is
 198 amended to read:

199 Section 8. Automatic retirement.—

200 (a) Automatic retirement.—Any firefighter subject to the
 201 provisions of this act attaining the age of 70 ~~seventy (70)~~
 202 years shall be automatically retired and shall cease to draw his
 203 or her compensation as such employee, but shall become
 204 immediately entitled to the pension or benefits provided hereby.
 205 In the event of doubt as to the attainment of such age, the
 206 Civil Service Board shall make inquiry and determine such fact
 207 after due notice to interested parties; provided that the
 208 provisions of this section shall not become operative until
 209 January 1, 1960, the former law remaining in effect until such
 210 date.

211 (b) Required minimum distributions.—Notwithstanding
 212 anything in the Firefighters' Relief and Pension Fund to the
 213 contrary, all distributions under the Firefighters' Relief and
 214 Pension Fund shall comply with section 401(a)(9) of the Code and
 215 the Regulations thereunder, as prescribed by the Commissioner in
 216 Revenue Rulings, Notices, and other guidance published in the
 217 Internal Revenue Bulletin, to the extent that said provisions
 218 apply to governmental plans under section 414(d) of the Code,
 219 and shall be made in accordance with the following requirements:

220 (1) Time and manner of distribution.—

221 a. Required beginning date.—The firefighter's entire
 222 interest will be distributed, or begin to be distributed, to the
 223 firefighter no later than the firefighter's required beginning

HB 1425

2012

224 date.

225 b. Death of firefighter before distributions begin.—If the
226 firefighter dies before distributions begin, the firefighter's
227 entire interest will be distributed, or begin to be distributed,
228 no later than as follows:

229 1. If the firefighter's surviving spouse is the
230 firefighter's sole designated beneficiary, distributions to the
231 surviving spouse will begin by December 31 of the calendar year
232 immediately after the calendar year in which the firefighter
233 died, or by December 31 of the calendar year in which the
234 firefighter would have attained age 70 years and 6 months, if
235 later.

236 2. If the firefighter's surviving spouse is not the
237 firefighter's sole designated beneficiary, then distributions to
238 the designated beneficiary will begin by December 31 of the
239 calendar year immediately after the calendar year in which the
240 firefighter died.

241 3. If there is no designated beneficiary as of September
242 30 of the year after the year of the firefighter's death, the
243 firefighter's entire interest will be distributed by December 31
244 of the calendar year containing the 5th anniversary of the
245 firefighter's death.

246 4. If the firefighter's surviving spouse is the
247 firefighter's sole designated beneficiary and the surviving
248 spouse dies after the firefighter but before distributions to
249 the surviving spouse begin, this subparagraph, other than sub-
250 sub-subparagraph 1., will apply as if the surviving spouse were
251 the firefighter.

252
253 For purposes of this subparagraph and paragraph (4),
254 distributions are considered to begin on the firefighter's
255 required beginning date or, if sub-subparagraph 4. applies, the
256 date distributions are required to begin to the surviving spouse
257 under sub-subparagraph 1. If annuity payments irrevocably
258 commence to the firefighter before the firefighter's required
259 beginning date or to the firefighter's surviving spouse before
260 the date distributions are required to begin to the surviving
261 spouse under sub-subparagraph 1., the date distributions are
262 considered to begin is the date distributions actually commence.

263 (2) Form of distribution.—Unless the firefighter's
264 interest is distributed in the form of an annuity purchased from
265 an insurance company or in a single sum on or before the
266 required beginning date, as of the first distribution calendar
267 year, distributions will be made in accordance with this
268 paragraph and paragraphs (4) and (5). If the firefighter's
269 interest is distributed in the form of an annuity purchased from
270 an insurance company, distributions thereunder will be made in
271 accordance with the requirements of section 401(a)(9) of the
272 Code.

273 (3) Determination of amount to be distributed each year.—

274 a. General annuity requirements.—If the interest is paid
275 in the form of annuity distributions under the Firefighters'
276 Relief and Pension Fund, payments under the annuity will satisfy
277 the following requirements:

278 1. The annuity distributions will be paid in periodic
279 payments made at intervals not longer than 1 year;

280 2. The distribution period will be over a life (or lives)
 281 or over a period certain not longer than the period described in
 282 paragraph (4) or paragraph (5);

283 3. Once payments have begun over a period certain, the
 284 period certain will not be changed even if the period certain is
 285 shorter than the maximum permitted; and

286 4. Payments will either be nonincreasing or increase only
 287 as follows:

288 (A) By an annual percentage increase that does not exceed
 289 the annual percentage increase in a cost-of-living index that is
 290 based on prices of all items and issued by the Bureau of Labor
 291 Statistics;

292 (B) To the extent of the reduction in the amount of the
 293 firefighter's payments to provide for a survivor benefit upon
 294 death, but only if the beneficiary whose life was being used to
 295 determine the distribution period described in paragraph (5)
 296 dies or is no longer the firefighter's beneficiary pursuant to a
 297 qualified domestic relations order within the meaning of section
 298 414(p) of the Code;

299 (C) To provide cash refunds of firefighter contributions
 300 upon the firefighter's death; or

301 (D) To pay increased benefits that result from a
 302 Firefighters' Relief and Pension Fund amendment.

303 b. Amount required to be distributed by required beginning
 304 date.—The amount that must be distributed on or before the
 305 firefighter's required beginning date or, if the firefighter
 306 dies before distributions begin, the date distributions are
 307 required to begin under sub-subparagraph (1)b.1. or sub-

HB 1425

2012

308 subparagraph (1)(b)4. is the payment that is required for one
309 payment interval. The second payment need not be made until the
310 end of the next payment interval even if that payment interval
311 ends in the next calendar year. Payment intervals are the
312 periods for which payments are received, e.g., bi-monthly,
313 monthly, semi-annually, or annually. All of the firefighter's
314 benefit accruals as of the last day of the first distribution
315 calendar year will be included in the calculation of the amount
316 of the annuity payments for payment intervals ending on or after
317 the firefighter's required beginning date.

318 c. Additional accruals after first distribution calendar
319 year.—Any additional benefits accruing to the firefighter in a
320 calendar year after the first distribution calendar year will be
321 distributed beginning with the first payment interval ending in
322 the calendar year immediately after the calendar year in which
323 such amount accrues.

324 (4) Requirements for annuity distributions that commence
325 during the firefighter's lifetime.—

326 a. Joint life annuities where the beneficiary is not the
327 firefighter's spouse.—If the firefighter's interest is being
328 distributed in the form of a joint and survivor annuity for the
329 joint lives of the firefighter and a nonspouse beneficiary,
330 annuity payments to be made on or after the firefighter's
331 required beginning date to the designated beneficiary after the
332 firefighter's death and must not at any time exceed the
333 applicable percentage of the annuity payment for such period
334 that would have been payable to the firefighter using the table
335 set forth in Q&A-2 of section 1.401(a)(9)-6T of the Regulations.

HB 1425

2012

336 If the form of distribution combines a joint and survivor
337 annuity for the joint lives of the firefighter and a nonspouse
338 beneficiary and a period certain annuity, the requirement in the
339 preceding sentence will apply to annuity payments to be made to
340 the designated beneficiary after the expiration of the period
341 certain.

342 b. Period certain annuities.—Unless the firefighter's
343 spouse is the sole designated beneficiary and the form of
344 distribution is a period certain and no life annuity, the period
345 certain for an annuity distribution commencing during the
346 firefighter's lifetime may not exceed the applicable
347 distribution period for the firefighter under the Uniform
348 Lifetime Table set forth in section 1.401(a)(9)-9 of the
349 Regulations for the calendar year that contains the annuity
350 starting date. If the annuity starting date precedes the year in
351 which the firefighter reaches age 70, the applicable
352 distribution period for the firefighter is the distribution
353 period for age 70 under the Uniform Lifetime Table set forth in
354 section 1.401(a)(9)-9 of the Regulations plus the excess of 70
355 over the age of the firefighter as of the firefighter's birthday
356 in the year that contains the annuity starting date. If the
357 firefighter's spouse is the firefighter's sole designated
358 beneficiary and the form of distribution is a period certain and
359 no life annuity, the period certain may not exceed the longer of
360 the firefighter's applicable distribution period, as determined
361 under this subsection, or the joint life and last survivor
362 expectancy of the firefighter and the firefighter's spouse as
363 determined under the Joint and Last Survivor Table set forth in

HB 1425

2012

364 section 1.401(a)(9)-9 of the Regulations, using the
365 firefighter's and spouse's attained ages as of the firefighter's
366 and spouse's birthdays in the calendar year that contains the
367 annuity starting date.

368 (5) Requirements for minimum distributions where the
369 firefighter dies before date distributions begin.-

370 a. A firefighter survived by the designated beneficiary.-
371 Except as provided in the Firefighters' Relief and Pension Fund,
372 if the firefighter dies before the date distribution of his or
373 her interest begins and there is a designated beneficiary, the
374 firefighter's entire interest will be distributed, beginning no
375 later than the time described in sub-subparagraph (1)b.1. or
376 sub-subparagraph (1)b.2., over the life of the designated
377 beneficiary or over a period certain not exceeding:

378 1. Unless the annuity starting date is before the first
379 distribution calendar year, the life expectancy of the
380 designated beneficiary determined using the beneficiary's age as
381 of the beneficiary's birthday in the calendar year immediately
382 after the calendar year of the firefighter's death; or

383 2. If the annuity starting date is before the first
384 distribution calendar year, the life expectancy of the
385 designated beneficiary determined using the beneficiary's age as
386 of the beneficiary's birthday in the calendar year that contains
387 the annuity starting date.

388 b. No designated beneficiary.-If the firefighter dies
389 before the date distributions begin and there is no designated
390 beneficiary as of September 30th of the year after the year of
391 the firefighter's death, distribution of the firefighter's

HB 1425

2012

392 entire interest will be completed by December 31 of the calendar
393 year of the 5th anniversary of the firefighter's death.

394 c. Death of surviving spouse before distributions to
395 surviving spouse begin.—If the firefighter dies before the date
396 distribution of his or her interest begins, the firefighter's
397 surviving spouse is the firefighter's sole designated
398 beneficiary, and the surviving spouse dies before distributions
399 to the surviving spouse begin, this subsection will apply as if
400 the surviving spouse were the firefighter, except that the time
401 by which distributions must begin will be determined without
402 regard to sub-subparagraph (1)b.2.

403 (6) Definitions.—For purposes of this section, the
404 following definitions shall apply:

405 a. "Designated beneficiary" means the individual who is
406 designated as the beneficiary in accordance with the
407 Firefighters' Relief and Pension Fund and is the designated
408 beneficiary under section 401(a)(9) of the Code and section
409 1.401(a)(9)-1, Q&A-4, of the Regulations.

410 b. "Distribution calendar year" means a calendar year for
411 which a minimum distribution is required. For distributions
412 beginning before the firefighter's death, the first distribution
413 calendar year is the calendar year immediately before the
414 calendar year that contains the firefighter's required beginning
415 date. For distributions beginning after the firefighter's death,
416 the first distribution calendar year is the calendar year in
417 which distributions are required to begin pursuant to paragraph
418 (1).

419 c. "Life expectancy" means as computed by use of the

420 Single Life Table in section 1.401(a)(9)-9 of the Treasury
 421 regulations.

422 d. "Required beginning date" means April 1 of the calendar
 423 year after the later of:

424 1. The calendar year in which the firefighter attains age
 425 70 years and 6 months; or

426 2. The calendar year in which the firefighter retires from
 427 employment with the City of Pensacola.

428 Section 3. Section 9 is added to of chapter 21483, Laws of
 429 Florida, 1941, as amended by chapter 2000-468, Laws of Florida,
 430 to read:

431 Section 9. Director of the Fire Department.—The Director
 432 of the Fire Department who is a firefighter shall have the
 433 option to participate, or not, in the Firefighters' Relief and
 434 Pension Fund. The Director of the Fire Department will be deemed
 435 to have elected to participate in the Firefighters' Relief and
 436 Pension Fund unless, within 90 days after appointment to the
 437 Office of Director of the Fire Department, the Director of the
 438 Fire Department notifies the board of trustees and the City of
 439 Pensacola in writing otherwise.

440 Section 4. Section 10 of chapter 21483, Laws of Florida,
 441 1941, as amended by chapter 2000-468, Laws of Florida, is
 442 amended to read:

443 Section 10. Retirement after 10 years' service.—If any
 444 firefighter of the City of Pensacola shall, after serving as
 445 such for a period of 10 full years or becoming otherwise
 446 eligible for retirement, cease to be such firefighter for any
 447 cause and shall not make withdrawal of all his or her

HB 1425

2012

448 contributions to the Firefighters' Relief and Pension Fund as
 449 provided by law, or having withdrawn the same, shall return it
 450 with 8 percent interest from the date of such withdrawal, he or
 451 she shall be eligible to receive the benefits equal to the
 452 amount provided in section 5(a), multiplied by the number of
 453 years of service; for this purpose only the number of years of
 454 service can be no more than 25 and divided by 25 years upon
 455 attaining the age of 52 years or becoming eligible for
 456 retirement by length of service or otherwise; his or her spouse
 457 and children shall in the event of his or her death be likewise
 458 so entitled. For purposes of the Firefighters' Relief and
 459 Pension Fund, a firefighter that has attained age 52 and
 460 completed 10 full years of service or completed 25 full years of
 461 service will have attained normal retirement age. Each
 462 firefighter's benefit shall become 100 percent vested upon
 463 attaining normal retirement age.

464 Section 5. Subsection (d) is added to section 13 of
 465 chapter 21483, Laws of Florida, 1941, as amended by chapter
 466 2000-468, Laws of Florida, to read:

467 Section 13. Death benefits for survivors.-

468 (d) Notwithstanding any provisions of the Firefighters'
 469 Relief and Pension Fund to the contrary, a retired firefighter
 470 may change his or her designation of joint annuitant or
 471 beneficiary up to two times, as provided in section 175.333,
 472 Florida Statutes, without the approval of the board of trustees
 473 or the current joint annuitant or beneficiary. The retiree is
 474 not required to provide proof of the good health of the joint
 475 annuitant or beneficiary being removed, and the joint annuitant

476 or beneficiary being removed need not be living. Upon change of
 477 a retiree's joint annuitant or beneficiary in accordance with
 478 this subsection, the amount of the benefit payable to the
 479 retiree shall be actuarially redetermined to take into account
 480 the age and sex of the former annuitant or beneficiary, the new
 481 annuitant or beneficiary and the retiree to ensure that the
 482 benefit paid is the actuarial equivalent of the present value of
 483 the retiree's then-current benefit at the time of the change.
 484 Any such retiree shall pay the actuarial recalculation expenses.
 485 Each request for a change shall be made in writing to the board
 486 of trustees.

487 Section 6. Section 15 of chapter 21483, Laws of Florida,
 488 1941, as amended by chapter 2000-468, Laws of Florida, is
 489 amended to read:

490 Section 15. Benefits to widows or, ~~widowers, and~~
 491 ~~dependents.~~—If a widow or widower enjoying a pension under any
 492 of the provisions of this act shall die, her or his pension
 493 shall cease; provided, however, if such death shall occur before
 494 such widow or widower, as the case may be, and the retiree,
 495 collectively, having received retirement benefits for a period
 496 of less than 10 years, the same benefit will be paid to the
 497 beneficiary or beneficiaries designated by the retiree for the
 498 balance of such 10-year period. Such beneficiary designation
 499 must be in writing, received, and approved by the trustees prior
 500 to the retiree's death. The remarriage of a widow or widower
 501 enjoying a pension under any of the provisions of this act shall
 502 not effect or alter such pension and if she or he shall remarry
 503 while enjoying any such pension, then and in the latter event,

504 ~~her or his pension shall cease and shall not be paid to such~~
 505 ~~widow or widower; provided, however, in the event the deceased~~
 506 ~~firefighter shall be survived by one or more legitimate children~~
 507 ~~under the age of eighteen years at the time the widow or widower~~
 508 ~~shall remarry, the pension board may, in its discretion, grant~~
 509 ~~an amount for the support and maintenance of said child or~~
 510 ~~children until said child or children become eighteen years of~~
 511 ~~age, not to exceed ten dollars (\$10.00) per month for each~~
 512 ~~child, in no event to exceed the sum of forty dollars (\$40.00)~~
 513 ~~per month for any one family.~~

514 Section 7. Section 19 of chapter 21483, Laws of Florida,
 515 1941, as amended by chapter 2000-468, Laws of Florida, is
 516 amended to read:

517 Section 19. The right of any firefighter or any
 518 beneficiary to any benefits under the Firefighters' Relief and
 519 Pension Fund or any other right accrued or accruing to any
 520 persons under the provisions of this Plan shall not be subject
 521 to execution, garnishment, attachment, the operation of any
 522 bankruptcy or insolvency law, or any other process of law
 523 whatsoever, and shall not be subject to assignment, pledge, or
 524 hypothecation unless expressly authorized in the Firefighters'
 525 Relief and Pension Fund. ~~Protection of benefits from legal~~
 526 ~~process. The pensions and other benefits accrued or accruing to~~
 527 ~~any person under this pension plan and the accumulated~~
 528 ~~contributions and the cash securities in the funds created under~~
 529 ~~this plan are exempted from any state, county, or municipal tax~~
 530 ~~and shall not be subject to execution or attachment or to any~~
 531 ~~legal process whatsoever, and shall be unassignable.~~

HB 1425

2012

532 Section 8. Section 28 of chapter 21483, Laws of Florida,
533 1941, as amended by chapter 2000-468, Laws of Florida, is
534 amended to read:

535 Section 28. Rollover distributions.—Notwithstanding any
536 other provision of the Firefighters' Relief and Pension Fund to
537 the contrary, a "distributee" may elect, at the time and in the
538 manner prescribed by the board of trustees, to have any portion
539 or all of an eligible rollover distribution paid directly to an
540 eligible retirement plan specified by the distributee in a
541 direct rollover. For purposes of this section, the following
542 definitions shall apply:

543 (a) "Distributee" means a firefighter or former
544 firefighter, the firefighter's surviving spouse, and the
545 firefighter's spouse or former spouse who is the alternate payee
546 under a court order, who is entitled to receive a portion of the
547 firefighter's benefit. Effective for plan years beginning on and
548 after January 1, 2007, a nonspouse beneficiary may elect to
549 directly rollover an eligible distribution to an IRA, a Roth
550 IRA, or an individual retirement annuity under section 408(b) of
551 the Code that is established on behalf of the designated
552 beneficiary as an inherited IRA, pursuant to the provisions of
553 section 402(c)(11) of the Code. In order to be able to roll over
554 the distribution, the distribution otherwise must satisfy the
555 definition of eligible rollover distribution. In addition, the
556 determination of any required minimum distribution under section
557 401(a)(9) of the Code that is ineligible for rollover shall be
558 made in accordance with IRS guidance.

559 (b) "Eligible retirement plan" means an eligible

HB 1425

2012

560 retirement plan is an IRA described in section 408(a) of the
561 Code, an individual retirement annuity described in section
562 408(b) of the Code, an annuity plan described in section 403(a)
563 of the Code, an annuity contract described in section 403(b) of
564 the Code, an eligible plan under section 457 of the Code that
565 agrees to separately account for such transferred amounts and
566 which is maintained by a state, political subdivision of a
567 state, an agency or instrumentality of a state or political
568 subdivision of a state, or a qualified trust described in
569 section 401(a) of the Code that accepts the distributee's
570 eligible rollover distribution. For distributions made after
571 December 31, 2007, an eligible retirement plan shall include a
572 Roth IRA as defined under section 408A of the Code.

573 (c) "Eligible rollover distribution" means any
574 distribution of all or any portion of the firefighter's benefit,
575 except that an eligible rollover distribution does not include
576 any distribution that is one of a series of substantially equal
577 periodic payments, at least annually, made for the life or life
578 expectancy of the distributee or the joint lives or joint life
579 expectancies of the distributee and the distributee's designated
580 beneficiary, or for a specified period of 10 years or more; any
581 distribution to the extent such distribution is required under
582 section 401(a)(9) of the Code; the portion of any distribution
583 that is not includable in gross income, determined without
584 regard to the exclusion for net unrealized appreciation with
585 respect to employer securities; and any distribution made to
586 satisfy section 415 of the Code.

587 (d) "Direct rollover" means a payment by the Firefighters'

588 Relief and Pension Fund to the eligible retirement plan
 589 specified by the firefighter.

590 (e) "Mandatory distribution" means a distribution that
 591 constitutes an eligible rollover distribution as defined in
 592 subsection (c) that is made without the firefighter's consent.
 593 See section 12 of the Plan for an example of a potential
 594 mandatory distribution. In the event a mandatory distribution is
 595 greater than \$1,000, and a distributee fails to elect to have
 596 such distribution paid directly to an eligible retirement plan
 597 specified by the distributee in a direct rollover or to receive
 598 the distribution directly, then the board of trustees will pay
 599 the distribution in a direct rollover to an individual
 600 retirement account ("IRA") designated by the board of trustees.

601 ~~Notwithstanding any provision of the Firefighters' Relief and~~
 602 ~~Pension Fund to the contrary that would otherwise limit a~~
 603 ~~firefighter's or retired firefighter's election (or such~~
 604 ~~deceased individual's surviving spouse's election) under this~~
 605 ~~fund, such firefighter or retired firefighter, or such deceased~~
 606 ~~individual's surviving spouse, may elect, at the time and in the~~
 607 ~~manner prescribed by the plan administrator, to have any portion~~
 608 ~~of an eligible rollover distribution paid directly to an~~
 609 ~~eligible retirement plan specified by such pensioner in a direct~~
 610 ~~rollover.~~

611 Section 9. Section 29 of chapter 21483, Laws of Florida,
 612 1941, as amended by chapter 2000-468, Laws of Florida, is
 613 amended to read:

614 Section 29. (a) To the extent that the City of Pensacola,
 615 as an employer of firefighters and as a Firefighters' Relief and

616 Pension Fund sponsor, may be required by law to provide
 617 additional benefits to firefighters employed by the city, or
 618 their beneficiaries, those additional benefits may be provided
 619 by ordinance.

620 (b) Notwithstanding any other provision of the fund to the
 621 contrary, contributions, benefits, and service credits with
 622 respect to qualified military service, as defined in section
 623 414(u) of the Code, shall be provided in accordance with section
 624 414(u) of the Code, the Uniformed Services Employment and
 625 Reemployment Rights Act of 1994 (USERRA), and the Heroes
 626 Earnings Assistance and Relief Tax Act of 2008 (HEART Act) and
 627 shall be effective as of the dates indicated in the USERRA and
 628 HEART Act.

629 (c) A partial lump sum plan (PLOP) that shall have no
 630 material cost to the Firefighters' Relief and Pension Fund or
 631 the city shall be established by ordinance of the city within
 632 120 days after this act becomes law to be administered by the
 633 board of trustees. ~~Additional benefits required by law. To the~~
 634 ~~extent that the City of Pensacola, as an employer of~~
 635 ~~firefighters and plan sponsor, may be required by law to provide~~
 636 ~~additional benefits to firefighters employed by the city, or~~
 637 ~~their beneficiaries, those additional benefits may be provided~~
 638 ~~by ordinance.~~

639 Section 10. Section 30 of chapter 21483, Laws of Florida,
 640 1941, as amended by chapter 2000-468, Laws of Florida, is
 641 amended to read:

642 Section 30. Definitions.—The following words and phrases
 643 have the following meanings:

HB 1425

2012

644 (a) "Accrued benefit" means the monthly benefit payable at
645 normal retirement age, as determined under the fund's formula.

646 (b) "Actuarial equivalent" (or any synonymous term) means
647 equality in value of the aggregate amount expected to be
648 received.

649 (c) "Code" means the Internal Revenue Code of 1986, as
650 amended.

651 (d) "Compensation," "salary," and "earnings" mean the
652 wages paid to a firefighter, longevity pay, overtime pay,
653 station or watch captain pay, special duty pay, in-service sick
654 leave redemption pay when paid, bonuses, lump-sum payments not
655 paid at termination, inclusive of employee-elective salary
656 reductions or deferrals to any salary reduction, deferred
657 compensation, or tax-sheltered annuity program authorized under
658 the Internal Revenue Code if the firefighter would receive those
659 reductions or deferrals if he or she were not participating in
660 such program, and any other payments required by law to be
661 included in pension calculations. Compensation for any plan year
662 shall not exceed the annual compensation limit under section
663 401(a)(17) of the Code as in effect on the first day of the plan
664 year. This limit shall be adjusted by the Secretary of the
665 Treasury to reflect increases in the cost of living, as provided
666 in section 401(a)(17)(B) of the Code. However, the dollar
667 increase in effect on January 1 of any calendar year is
668 effective for the plan year beginning in such calendar year. If
669 a plan determines compensation over a plan year that contains
670 less than 12 months ("short plan year"), the compensation limit
671 for such short plan year is equal to the compensation limit for

HB 1425

2012

672 the calendar year in which the short plan year begins multiplied
673 by the ratio obtained by dividing the number of full months in
674 the short plan year.

675 (e) "Deferred Retirement Option Plan" or "DROP" means a
676 retirement option in which a firefighter may elect to
677 participate, under which a firefighter may retire for all
678 purposes of the plan and defer receipt of retirement benefits
679 into a DROP account while continuing employment with the city.

680 (f) "Direct rollover" means a payment by the Firefighters'
681 Relief and Pension Fund to the eligible retirement plan
682 specified by the firefighter or retired firefighter or such
683 deceased individual's surviving spouse.

684 (g) "Eligible retirement plan" means an individual
685 retirement account described in section 408(a) of the Internal
686 Revenue Code of 1986, an individual retirement annuity described
687 in section 408(b) of the Internal Revenue Code of 1986, an
688 annuity plan described in section 403(a) of the Internal Revenue
689 Code of 1986, or a qualified trust described in section 401(a)
690 of the Internal Revenue Code of 1986 that accepts the
691 firefighter's or retired firefighter's eligible rollover
692 distribution. However, in the case of an eligible rollover
693 distribution to the surviving spouse of a deceased firefighter
694 or deceased retired firefighter, an eligible retirement plan is
695 an individual retirement account or individual retirement
696 annuity.

697 (h) "Eligible rollover distribution" means any
698 distribution of all or any portion of the balance to the credit
699 of the firefighter or retired firefighter, except that an

700 eligible rollover distribution does not include any distribution
 701 that is one of a series of substantially equal periodic payments
 702 paid not less frequently than annually, made for the life or
 703 life expectancy of the firefighter or retired firefighter or the
 704 joint lives or joint life expectancies of the firefighter or
 705 retired firefighter and such individual's designated
 706 beneficiary, or for a specified period of 10 years or more; any
 707 distribution to the extent such distribution is required under
 708 section 401(a) (9) of the Internal Revenue Code of 1986; and the
 709 portion of any distribution that is not includable in gross
 710 income.

711 (i) "Enrolled actuary" means an actuary who is enrolled
 712 under Subtitle C of Title III of the Employee Retirement Income
 713 Security Act of 1974 and who is a member of the Society of
 714 Actuaries or the American Academy of Actuaries.

715 (j) "Firefighter" means any person employed by the City of
 716 Pensacola Fire Department who is certified as a firefighter as a
 717 condition of employment in accordance with the provisions of
 718 section 633.35, Florida Statutes, and whose duty it is to
 719 extinguish fires, to protect life, or to protect property.

720 (k) "Limitation year" means the plan year.

721 (l) "Plan" means the Firefighters' Relief and Pension
 722 Fund.

723 (m) "Plan year" means the 12-month period ending on
 724 September 30.

725 (n) "Retiree" or "retired firefighter" means a firefighter
 726 who has entered retirement status. A firefighter who enters a
 727 DROP created by the City of Pensacola for firefighters shall be

728 considered a retiree for all purposes of the Firefighters'
 729 Relief and Pension Fund.

730 (o) "Retirement" means a firefighter's separation from
 731 city employment as a firefighter with the immediate eligibility
 732 for receipt of benefits under the Firefighters' Relief and
 733 Pension Fund, including entry into a Deferred Retirement Option
 734 Plan.

735 (p) "Years of service" means the aggregate number of years
 736 of service and fractional parts of a year of service, omitting
 737 intervention years and fractional parts of years when a
 738 firefighter may not have been employed by the city as a
 739 firefighter.

740 ~~Definitions. The following words and phrases have the~~
 741 ~~following meanings:~~

742 ~~(a) "Compensation," "salary," and "earnings" mean the~~
 743 ~~wages paid to a firefighter, longevity pay, overtime pay,~~
 744 ~~station or watch captain pay, special duty pay, in-service sick~~
 745 ~~leave redemption pay (when paid), bonuses, lump-sum payments not~~
 746 ~~paid at termination, inclusive of employee elective salary~~
 747 ~~reductions or deferrals to any salary reduction, deferred~~
 748 ~~compensation, or tax-sheltered annuity program authorized under~~
 749 ~~the Internal Revenue Code if the firefighter would receive those~~
 750 ~~reductions or deferrals if he or she were not participating in~~
 751 ~~such program, and any other payments required by law to be~~
 752 ~~included in pension calculations.~~

753 ~~(b) "Deferred Retirement Option Plan" or "DROP" means a~~
 754 ~~retirement option in which a firefighter may elect to~~
 755 ~~participate, under which a firefighter may retire for all~~

HB 1425

2012

756 ~~purposes of the plan and defer receipt of retirement benefits~~
757 ~~into a DROP account while continuing employment with the city.~~

758 ~~(c) "Direct rollover" means a payment by the Firefighters'~~
759 ~~Relief and Pension Fund to the eligible retirement plan~~
760 ~~specified by the firefighter or retired firefighter or such~~
761 ~~deceased individual's surviving spouse.~~

762 ~~(d) "Eligible retirement plan" means an individual~~
763 ~~retirement account described in section 408(a) of the Internal~~
764 ~~Revenue Code of 1986, an individual retirement annuity described~~
765 ~~in section 408(b) of the Internal Revenue Code of 1986, an~~
766 ~~annuity plan described in section 403(a) of the Internal Revenue~~
767 ~~Code of 1986, or a qualified trust described in section 401(a)~~
768 ~~of the Internal Revenue Code of 1986 that accepts the~~
769 ~~firefighter's or retired firefighter's eligible rollover~~
770 ~~distribution. However, in the case of an eligible rollover~~
771 ~~distribution to the surviving spouse of a deceased firefighter~~
772 ~~or deceased retired firefighter, an eligible retirement plan is~~
773 ~~an individual retirement account or individual retirement~~
774 ~~annuity.~~

775 ~~(e) "Eligible rollover distribution" means any~~
776 ~~distribution of all or any portion of the balance to the credit~~
777 ~~of the firefighter or retired firefighter, except that an~~
778 ~~eligible rollover distribution does not include: any~~
779 ~~distribution that is one of a series of substantially equal~~
780 ~~periodic payments (not less frequently than annually) made for~~
781 ~~the life (or life expectancy) of the firefighter or retired~~
782 ~~firefighter or the joint lives (or joint life expectancies) of~~
783 ~~the firefighter or retired firefighter and such individual's~~

HB 1425

2012

784 ~~designated beneficiary, or for a specified period of ten years~~
785 ~~or more; any distribution to the extent such distribution is~~
786 ~~required under section 401(a)(9) of the Internal Revenue Code of~~
787 ~~1986; and the portion of any distribution that is not includable~~
788 ~~in gross income.~~

789 ~~(f) "Enrolled actuary" means an actuary who is enrolled~~
790 ~~under Subtitle C of Title III of the Employee Retirement Income~~
791 ~~Security Act of 1974 and who is a member of the Society of~~
792 ~~Actuaries or the American Academy of Actuaries.~~

793 ~~(g) "Firefighter" means any person employed by the City of~~
794 ~~Pensacola fire department who is certified as a firefighter as a~~
795 ~~condition of employment in accordance with the provisions of s.~~
796 ~~633.35, Florida Statutes, and whose duty it is to extinguish~~
797 ~~fires, to protect life, or to protect property.~~

798 ~~(h) "Retiree" or "retired firefighter" means a firefighter~~
799 ~~who has entered retirement status. A firefighter who enters a~~
800 ~~DROP created by the City of Pensacola for firefighters shall be~~
801 ~~considered a retiree for all purposes of the Firefighters'~~
802 ~~Relief and Pension Fund.~~

803 ~~(i) "Retirement" means a firefighter's separation from~~
804 ~~city employment as a firefighter with the immediate eligibility~~
805 ~~for receipt of benefits under the Firefighters' Relief and~~
806 ~~Pension Fund, including entry into a Deferred Retirement Option~~
807 ~~Plan.~~

808 Section 11. Sections 31 through 33 are added to chapter
809 21483, Laws of Florida, 1941, as amended by chapter 2000-468,
810 Laws of Florida, to read:

HB 1425

2012

811 Section 31. Maximum pension.—The benefits otherwise
812 payable to a firefighter or a beneficiary under the
813 Firefighters' Relief and Pension Fund, and, where relevant, the
814 benefits of a firefighter, shall be limited to the extent
815 required by the provisions of section 415 of the Code. To the
816 extent applicable, the provisions of section 415 of the Code are
817 incorporated by reference into the Firefighters' Relief and
818 Pension Fund. For this purpose, the limitation year is set forth
819 in section 30(k).

820 Section 32. Plan termination.—Upon termination of the
821 Firefighters' Relief and Pension Fund for any reason, or upon
822 written notice to the board of trustees that contributions
823 thereunder are being permanently discontinued, the rights of all
824 firefighters to benefits accrued to the date of such termination
825 and the amounts credited to a firefighter's account, if
826 applicable, are vested. Upon termination, the Firefighters'
827 Relief and Pension Fund shall be distributed in accordance with
828 the following procedures:

829 (a) The board of trustees shall determine the date of
830 distribution and the asset value required to the Firefighters'
831 Relief and Pension Fund all the vested benefits after taking
832 into account the expenses of such distribution. The board shall
833 inform the City of Pensacola if additional assets are required,
834 in which event the City of Pensacola shall continue to
835 financially support the Firefighters' Relief and Pension Fund
836 until all vested benefits have been funded.

837 (b) The board of trustees shall determine the method of
838 distribution of the asset value, whether distribution shall be

HB 1425

2012

839 by payment in cash, by the maintenance of another or substituted
840 trust fund, by the purchase of insured annuities, or otherwise,
841 for each firefighter entitled to benefits under the
842 Firefighters' Relief and Pension Fund as specified in subsection
843 (c).

844 (c) The board of trustees shall distribute the asset value
845 as of the date of termination in the manner set forth in this
846 subsection, on the basis that the amount required to provide any
847 given retirement income is the actuarially equivalent single sum
848 value of such retirement income, except that if the method of
849 distribution determined under subsection (b) involves the
850 purchase of an insured annuity, the amount required to provide
851 the given retirement income is the single premium payable for
852 such annuity. The actuarial equivalent single sum value may not
853 be less than the firefighter's accumulated contributions to the
854 Firefighters' Relief and Pension Fund, with interest if provided
855 by the Firefighters' Relief and Pension Fund, less the value of
856 any benefits previously paid to the firefighter from the
857 Firefighters' Relief and Pension Fund.

858 (d) If there is asset value remaining after the full
859 distribution specified in subsection (c), and after the payment
860 of any expenses incurred with such distribution, such excess
861 shall be returned to the City of Pensacola, less return to the
862 state of the state's contributions, provided that, if the excess
863 is less than the total contributions made by the City of
864 Pensacola and the state to date of termination of the
865 Firefighters' Relief and Pension Fund, such excess shall be
866 divided proportionately to the total contributions made by the

867 City of Pensacola and the state.

868 (e) The board of trustees shall distribute, in accordance
 869 with subsection (b), the amounts determined under subsection
 870 (c).

871
 872 If, 24 months after the date the Firefighters' Relief and
 873 Pension Fund terminated or the date the board received written
 874 notice that the contributions thereunder were being permanently
 875 discontinued, the City of Pensacola or the board of trustees of
 876 the Firefighters' Relief and Pension Fund has not complied with
 877 all the provisions in this section, the Department of Management
 878 Services shall effect the termination of the Firefighters'
 879 Relief and Pension Fund in accordance with section 175.361,
 880 Florida Statutes.

881 Section 33. Forfeitures.—

882 (a) A firefighter or such firefighter's beneficiary shall
 883 forfeit all benefits provided by the Firefighters' Relief and
 884 Pension Fund to the extent provided by the Florida State
 885 Constitution or general law.

886 (b) Forfeitures arising from any cause whatsoever under
 887 the Firefighters' Relief and Pension Fund shall not be applied
 888 to increase the benefits to any firefighter would otherwise
 889 receive under the Firefighters' Relief and Pension Fund at any
 890 time before the termination of the Firefighters' Relief and
 891 Pension Fund or the complete discontinuance of contributions
 892 hereunder. Forfeitures shall be applied to reduce the
 893 contributions under the Firefighters' Relief and Pension Fund in
 894 the current or subsequent years by the City of Pensacola.

HB 1425

2012

895 | Section 12. This act shall take effect upon becoming a
896 | law.