

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE AMENDING CHAPTER 34, "CITY POLICY," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH RELATING TO THE POLICE & FIREFIGHTERS' RETIREMENT SYSTEM IN ACCORDANCE WITH CHAPTER 2009-97, LAWS OF FLORIDA, BY AMENDING SECTION 34.048, "PENSION BOARD," TO PROVIDE FOR A CHANGE TO THE DESIGNATED BENEFICIARY OR JOINT ANNUITANT UP TO TWO TIMES WITHOUT BOARD APPROVAL; BY AMENDING SECTION 34.060, "OPTIONAL FORMS OF RETIREMENT BENEFITS," TO COMPLY WITH REPORTING AND OTHER REQUIREMENTS; BY AMENDING SECTION 34.065, "PENSIONS NOT ASSIGNABLE," TO PROVIDE FOR THE DEDUCTION OF FUNDS FOR RETIRED MEMBERS' ACCIDENT, HEALTH AND LONG-TERM CARE INSURANCE PREMIUMS; BY AMENDING SECTION 34.071, "TERMINATION OF THE SYSTEM," TO COMPLY WITH FUND DISTRIBUTION PROCEDURES; PROVIDING FOR SEVERABILITY, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 2009 Florida Legislature enacted Chapter 2009-97, Law of Florida, which mandates certain amendments to the City's Firefighter Pension Plan; and

WHEREAS, an amendment to the city code is necessary to permit such new obligations and conditions, and

WHEREAS, the City Commission has received and reviewed an actuarial impact statement from the Retirement System's actuary relating to the amendments set forth herein

WHEREAS, the Board of Trustees of the Police & Firefighters' Retirement System has recommended the change described below; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notices described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 34.048, "Pension Board," of the City of Pompano Beach Code of Ordinances is hereby amended as follows:

§ 34.048 PENSION BOARD.

...

(D) The Board of Pension Trustees shall have the following investment powers and authority.

(1) The trustee shall invest and reinvest the funds in those securities or in that property, real or personal, wherever situated, as the trustee shall deem advisable, including but not limited to, stocks, common or preferred, bonds, and mortgages, and other evidences of indebtedness or ownership, although these may not be of the character permitted for trustees' investment by the laws of the state The board shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in Florida Statutes, Section 215.473, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in such company beginning January 1, 2010 and shall thereafter be prohibited from purchasing or holding such securities. The divestiture of any such security must be completed by September 30, 2010. In accordance with Ch. 2009-97, Laws of Florida, no person may bring any civil, criminal, or administrative action against the board or any employee, officer, director, or advisor of such board based upon the divestiture of any security pursuant to this paragraph. The Board of Pension Trustees shall be vested with full legal title to the fund. All contributions from time to time paid into the fund, and the income thereof, without distinction between principal and income, shall be held and administered by the Board or its agent in the fund and the Board shall not be required to segregate or invest separately any portion of the fund.

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SECTION 2. That Section 34.060, "Optional Forms of Retirement Benefits," of the City of Pompano Beach Code of Ordinances is hereby amended as follows:

§ 34.060 OPTIONAL FORMS OF RETIREMENT BENEFITS.

Each member entitled to a retirement benefit shall have the right at any time prior to his actual retirement to elect to have his retirement benefit payable under any one of the options hereinafter set forth in lieu of the retirement benefits otherwise provided herein, and to revoke any elections and make a new election at any time prior to actual retirement. The value of optional retirement benefits shall be actuarially equivalent to the value of benefits otherwise payable. The member shall make an election by written request to the Board of Pension Trustees. A member shall have the right to change his designated beneficiary in accordance with F.S. §§ 175.171 or 185.161.

(A) *Option 1. Joint and last survivor option.* A retiring member may elect to receive a decreased retirement benefit during his or her lifetime and have the decreased retirement benefit, or a designated fraction thereof, continued after his or her death to and during the lifetime of his or her designated beneficiary, subject to any restrictions applicable under federal law. A retired member may change his or her designated beneficiary or joint annuitant up to two times without the approval of the Board or the current designated beneficiary. The retiree member need not provide proof of the good health of the designated beneficiary being removed, and the designated beneficiary being removed need not be living. The election of Option 1 shall be null and void if the designated beneficiary dies before the member's retirement; however, the member may designate another beneficiary. ~~Additionally, if the beneficiary designated at the time of the member's retirement dies before the retired member, the member may, one time only during his or her retirement, elect to designate another beneficiary or receive the normal retirement benefit; in either case, the member's retirement benefit shall be recalculated to be actuarially equivalent.~~ Should a new joint annuitant or beneficiary be elected, the member's retirement benefit shall be actuarially recalculated to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit and that there is no impact to the system. In the event the beneficiary is other than the spouse, the present value of the payments to the retired member must initially be at least 50% of the total combined present value of payments to both the member and beneficiary.

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SECTION 3. That Section 34.065, "Pensions Not Assignable," of the City of Pompano

Beach Code of Ordinances is hereby amended to read as follows:

§ 34.065 PENSIONS NOT ASSIGNABLE.

No pension provided for herein shall be assignable or subject to garnishment for debt or for other legal process; except the recipient of any monthly benefit may authorize the board of trustees to withhold from the monthly benefit those funds necessary to pay for the benefits beings received through the city or BSO, to pay the certified bargaining agent of the city or BSO, and to make any payments for child support or alimony. Further, the recipient of any monthly benefit may authorize the board of trustees upon written request, to withhold from the monthly benefit those funds necessary to pay for accident, health, and long-term care insurance premiums for the recipient, the recipient's spouse and the recipient's dependents. The Retirement System shall not incur any liability for participation in such permissive program if its action is taken in good faith.

SECTION 4. That Section 34.071, "Termination of the System," of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

§ 34.071 TERMINATION OF THE SYSTEM.

(A) In the event of termination of the system, or complete discontinuance of city contributions to the system, ~~the fund held on the effective date of termination or discontinuance shall be administered for the sole benefit of the then members, active and retired, and beneficiaries then receiving benefits and any future beneficiaries entitled to receive benefits who are designated by any of the members. Subject to the provisions of this section, the fund shall be promptly allocated by the trustees in an equitable manner to provide benefits for the persons stated herein, in accordance with the provisions of the system, in the following order of priority, and after first allocating accumulated employee contributions with interest not yet paid in the form of benefits under the system~~ each participant's accrued pension benefit shall become nonforfeitable (i.e. 100% vested). The Board shall determine the date of distribution and the asset value required to fund all of the nonforfeitable benefits. The Board shall inform the City, or then current System sponsor, if additional assets are required, in which event, the City, or then current Fund sponsor, shall continue to financially support the Retirement System until all nonforfeitable benefits have been fully funded. At such time, the funds shall be appropriated and distributed in accordance with the provisions of Florida Statutes, Sections 175.361 and 185.37.

~~(1) — Members already retired under the normal retirement provisions of this system and those eligible for normal retirement but not actually retired, and their beneficiaries, in proportion to and to the extent of the then actuarially determined present value of the benefits payable.~~

~~(2) — If any funds remain, then members already retired or eligible for retirement under the early retirement provisions of this system and their beneficiaries in the same manner as in (1) above.~~

~~(3) — If any funds remain, then all other members and their beneficiaries in the same manner as in (1) above but based upon continuous service and average monthly earnings as of the date of termination of the system, and with any benefits vested given precedence.~~

~~(B) — The allocation of the fund provided for may, as decided by the Board of Trustees, be carried out through the purchase of insurance company contracts to provide the benefits as determined. The fund may be distributed in one sum to the persons entitled to the benefits in the proportion of the then present value of the benefits, or the distribution may be carried out in some other equitable manner as the trustees may direct.~~

~~(C) — Under no circumstances before the satisfaction of all liabilities to members and their beneficiaries shall any part of the corpus or income of the trust fund be used for, or diverted to, purposes other than for the exclusive benefit of members and their beneficiaries; and until those liabilities are satisfied, all city contributions will remain in the fund for the benefit of the members or beneficiaries in the event that the system is terminated or city contributions cease.~~

~~(D) — Upon the termination of the system or upon the complete discontinuance of contributions under the system, each member will have nonforfeitable, 100% vested rights to the benefits accrued to date of termination or discontinuance to the extent funded at that time.~~

~~(E) — If, at any time during the first ten years after its effective date, this system shall be terminated or the full current costs of the system (consisting of the normal costs and interest on any accrued liability) shall not have been met, and until such time thereafter as the full current costs have been met, anything in the system to the contrary notwithstanding, city contributions which may be used for the benefit of any one of the 25 highest paid police and firefighters employees of the city on the effective date, whose anticipated annual retirement allowance provided by the city's contributions at his normal retirement date would exceed \$1,500, shall not exceed the greater of either \$20,000, or an amount computed by multiplying the smaller of \$10,000 or 20% of the employee's average annual earnings during his last five years of service by the number of years of service since the effective date.~~

~~(F) — In the event that it shall hereafter be determined by statute, court decision, ruling by the Commissioner of Internal Revenue or otherwise, that the provisions of this division are not then necessary to qualify the system under the~~

~~Internal Revenue Code, this division shall be ineffective without the necessity of further amendment of this section.~~

SECTION 5. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6. This Ordinance shall become effective upon adoption and shall apply to all retirements on or after that date. Any employee contributions due on account of the retroactive application of this ordinance shall be paid by the employer through employee pickup within sixty (60) days of adoption.

PASSED FIRST READING this 8th day of June, 2010.

PASSED SECOND READING this 22nd day of June, 2010.



LAMAR FISHER, MAYOR

ATTEST:



MARY L. CHAMBERS, CITY CLERK

EGR:jrm
5/26/10
l:ord/ch34/2010-239