

CHAPTER 98-467

House Bill No. 3649

An act relating to the City of Jacksonville Beach, Duval County; amending chapter 27643, Laws of Florida, 1951, as amended, the Employees' Retirement System of the City of Jacksonville Beach; specifying that benefits may be payable to a participant's Deferred Retirement Option Program; specifying that the option selection for payment of benefits shall be final at the time a benefit payment is assigned to the Deferred Retirement Option Program; specifying death benefits applicable to Deferred Retirement Option Program participants; providing overview of the Deferred Retirement Option Program; providing eligibility criteria; providing for procedures for election of participation; providing for benefits payable; providing for death benefits; providing limitations on employment after participation; specifying contribution rates; specifying that Deferred Retirement Option Program participation does not exempt such participants from the forfeiture of benefits under the provisions of s. 112.3173, F.S.; providing for administration of the program; providing an effective date.

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

Section 1. Subsection (5) is added to section 9 of chapter 27643, Laws of Florida, 1951, as amended, to read:

Section 9. Amount of a pension.—

(5) Deferred retirement option program.—In general, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is a program under which an eligible member of the retirement system may elect to participate, deferring receipt of retirement benefits while continuing employment with the city. The deferred monthly benefits shall accrue in the reserve for pension payments fund on behalf of the participant, plus interest compounded monthly, for the specified period of the DROP participation, as provided in paragraph (c). Upon termination of employment, the participant shall receive the total DROP benefits and begin to receive the previously determined normal retirement benefits. Employment in the DROP does not guarantee employment for the specified period of DROP.

(a) Eligibility of member to participate in the DROP.—All retirement system members are eligible to elect participation in the DROP provided that election to participate is made on or after the member first reaches normal retirement date or age. The member shall advise the city and the retirement system in writing of the date on which the DROP shall begin.

(b) Participation in the DROP.—

1. An eligible member may elect to participate in the DROP for a period not to exceed a maximum of 36 consecutive months. Any member who has exceeded the 36-month limitation shall not be eligible to participate in the DROP.

2. Upon deciding to participate in the DROP, the member shall submit on forms required by the retirement system:

a. A written election to participate in the DROP.

b. Selection of the DROP participation and termination dates, which satisfy the limitations stated in paragraph (a) and subparagraph 1. Such termination date shall be in a binding letter of resignation with the city.

establishing a deferred termination date. The member may terminate before the termination date within the limitations of subparagraph 1., but only with advance written notice to the city.

c. A properly completed DROP application for service retirement as provided in this section.

d. A written election of form of pension payment, pursuant to section 10.

e. Any other information required by the retirement system.

3. The DROP participant shall be a retirant under the retirement system for all purposes except that payment of benefits to the retirant shall be deferred until separation from city employment.

4. A reemployed retirant with renewed membership is not eligible for DROP participation.

(c) Benefits payable under the DROP.—

1. Effective with the date of DROP participation, the member's initial normal monthly benefit, including credited service and final average compensation, shall be fixed. Such retirement benefit, any annual cost-of-living adjustments which may be provided, and interest shall accrue monthly in the retirement system's reserve for pension payments. Such interest shall accrue at an annual rate set quarterly by the board of trustees, which shall not be less than 3.5 percent compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death. An annual administration fee of 0.75 percent shall be deducted from each DROP participant's accrued benefits, prorated monthly.

2. The effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in the DROP.

3. Normal retirement benefits and interest thereon shall continue to accrue in the DROP until the established termination date of the DROP, or until the participant terminates employment or dies prior to such date. Although individual DROP accounts shall not be established, a separate accounting of each participant's accrued benefits under the DROP shall be calculated and provided to participants annually.

4. At the conclusion of the participant's DROP, the retirement system shall distribute the participant's total accumulated DROP benefits, subject to the following provisions:

a. The retirement system shall receive verification from the city that the participant has terminated employment.

b. The terminated DROP participant or if deceased, such participant's named beneficiary, shall elect on forms provided by the retirement system to receive payment of the DROP benefits in accordance with one of the options listed below. For a participant or beneficiary who fails to elect a

method of payment within 60 days of termination of the DROP, the retirement system will pay a lump sum as provided in (I).

I. Lump sum.—All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.

II. Direct rollover.—All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code.

III. Partial lump sum.—A portion of the accrued DROP benefits shall be paid to the DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or surviving beneficiary.

c. The form of payment selected by the DROP participant or surviving beneficiary complies with the minimum distribution requirements of the Internal Revenue Code and payments begin no later than the date on which the participant reaches age 70 years and 6 months. Regardless of the form of payout, a participant's DROP account continues until the account balance is exhausted.

d. For a DROP participant who fails to terminate city employment at the expiration of the 36-month maximum DROP participation period, the member shall be deemed not to be retired, the DROP election shall be null and void, and the member shall have no accumulated DROP benefits. Retirement system membership shall be reestablished retroactively to the date of the commencement of the DROP, and the member shall be required to pay to the retirement system the member contributions at the rate set forth in section 20, and the city contributions, as established pursuant to section 32, required during the period the member participated in the DROP, plus 6.5 percent interest compounded annually.

5. The accrued benefits of any DROP participant, and any contributions accumulated under such program, shall not be subject to assignment, execution, attachment, or to any legal process whatsoever, except for qualified domestic relations orders by a court of competent jurisdiction, income deduction orders as provided in s. 61.1301, Florida Statutes, and federal income tax levies.

6. DROP participants shall not be eligible for disability retirement benefits as provided in sections 15, 16, 17, and 18, and the participant's beneficia-

ries and survivors shall not be eligible for the automatic survivor pension, death in the line of duty pension, or survivor pension as provided respectively in sections 12, 13, and 14.

(d) Death benefits under the DROP.—

1. Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in subparagraph (c)4.b.

2. The normal retirement benefit accrued to the DROP during the month of a participant's death shall be the final monthly benefit credited for such DROP participant.

3. Eligibility to participate in the DROP terminates upon death of the participant. If the participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, retirement system benefits shall be paid as though the DROP election had not been made.

(e) Contributions.—

1. Member contributions shall not be made, due, or payable during a participant's DROP participation, section 20 hereof notwithstanding.

2. The city shall not pick up member contributions or a DROP participant during a participant's DROP participation, section 21 hereof notwithstanding, but instead shall be paid to the DROP participant as wages or salary.

(f) Forfeiture of retirement benefits.—Nothing in this section shall be construed to remove DROP participants from the scope of s. 8(d), Art. II of the State Constitution, and s. 112.3173, Florida Statutes. DROP participants who commit a specified felony offense while employed will be subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.

(g) Administration of program.—The board of trustees shall make such rules as are necessary for the effective and efficient administration of this subsection. The retirement system shall not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.

Section 2. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 28, 1998.

Filed in Office Secretary of State May 27, 1998.