

ARTICLE III. - MUNICIPAL FIREFIGHTERS' PENSION AND RETIREMENT SYSTEM

FOOTNOTE(S):

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State Law reference— Municipal firefighters' pension and retirement, F.S. ch. 175.

Sec. 70-61. - Established.

- (a) There is established in the city a pension and retirement system for paid firefighters of the fire department of the city a firefighters' pension trust fund pursuant to the Charter and F.S. ch. 175. Except as specifically provided in this article to the contrary, the local law plan requirements of F.S. ch. 175 shall be applicable.
- (b) The trust fund is a local pension plan as allowed by F.S. § 175.351. Pursuant to such law, the plan shall meet the requirements of F.S. § 175.351. The trust fund shall be administered by a board of trustees as provided in F.S. ch. 175.

(Code 1959, § 15-11)

Sec. 70-62. - Contributions.

- (a) *Contributions by the city to the firefighters' pension trust fund.* The city shall contribute to the firefighters' pension trust fund annually an amount which, together with the contributions from the firefighters and the amount derived from the premium tax and other sources allowed by law, will be sufficient to meet the normal cost of the firefighters' pension trust fund and to fund the actuarial deficiency over a period of not more than 40 years. The city's contribution shall not be required unless the contribution of the firefighters reaches the five percent level as provided in this section.
- (b) *Contributions by firefighters to the firefighters' pension trust fund.* The city shall pay into the firefighters' pension trust fund an amount not less than one percent nor more than five percent of the salary of each firefighter who is a member of the fire department and eligible for inclusion in the firefighters' pension trust fund, which one to five percent shall be deducted by the city from the compensation due to the firefighter. Currently, the firefighter contribution is one percent of annual compensation and shall increase by an additional one percent of annual compensation on November 1 each year until the firefighter contribution is a total of four percent of annual compensation. Provided however that the firefighters' increases in contributions as set forth herein is conditioned on the firefighters receiving pay increases for each year that the firefighters' contribution is to increase in an amount that is no less than the amount of the increased contribution required hereunder. No firefighter shall have any right to the money so paid into the firefighters' pension trust fund except as provided by law and the firefighters' pension trust fund.

(Code 1959, § 15-12; Ord. No. 03-66, § 3, 1-6-2004)

Sec. 70-63. - Participation in plan mandatory.

Any firefighter of the city who is eligible for inclusion into the plan must join this fund as a prerequisite to employment in the fire department. Any firefighter that meets that definition found in F.S. § 175.032(8)(a) is eligible for inclusion in the plan. Provided, however the fire chief shall have the option to participate or not participate in the plan pursuant to F.S. § 175.032(8)(a).

(Code 1959, § 15-13; Ord. No. 04-42, § 1, 8-5-2004)

Sec. 70-64. - Other local pension or relief funds.

No firefighter beneficiary of this pension fund may also be a beneficiary or recipient or member of a local pension or relief fund established under any other state law.

(Code 1959, § 15-14)

Sec. 70-65. - Custodial agreements authorized.

The board of trustees in administering the retirement system may enter into custodial agreements with any bank or trust company licensed to do business in the state.

(Code 1959, § 15-15)

Sec. 70-66. - Effect of article; insurance to implement systems.

Nothing in this article shall be construed to repeal, rescind or replace any existing system of pension or retirement to which any firefighter is a member, but may be coordinated with such system in its continuation.

(Code 1959, § 15-16)

Sec. 70-67. - Monthly retirement income for firefighters.

The amount of monthly retirement income payable to a firefighter of the city who is currently employed as of or is first hired after January 6, 2004, who retires on or after his or her normal retirement date shall be in an amount equal to the number of years of credited service multiplied by four percent of his or her average final compensation. The amount of monthly retirement income payable to a firefighter of the city who is eligible to participate in the firefighters' pension trust fund but who is not employed as of January 6, 2004, shall be 2.5 percent of his or her average final compensation for years of service prior to October 1, 1998, and by three percent of his or her average final compensation for years of service after October 1, 1998. Provided however, that should a firefighter of the city who has previously been employed by the city as a firefighter and who has left the city's employment prior to January 6, 2004, subsequently be rehired by the city after January 6, 2004, as a firefighter, then such firefighter shall receive on his or her normal retirement date a monthly retirement income equal to 2.5 percent of his or her average final compensation for years of service prior to October 1, 1998, 3.0 percent of his or her average final compensation for years of service between October 1, 1998, and January 6, 2004, and 4.0 percent of his or her average final compensation for years of service after January 6, 2004. Provided however, in no event may a firefighter receiving benefits from the firefighters' pension trust fund receive a monthly retirement income in excess of 100 percent of such firefighter's average final compensation.

(Code 1959, § 15-17; Ord. No. 98-31, § 1, 9-17-1998; Ord. No. 03-66, § 2, 1-6-2004)

Sec. 70-68. - Investment of retirement funds.

The board of trustees of the firefighters' pension fund may invest and reinvest the assets of the firefighters' pension fund in: real estate investments, investment grade bonds, stocks or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States or the District of Columbia, foreign securities, provided:

- (1) The corporation is listed on any one or more of the recognized national stock exchanges;
- (2) The board of trustees of the firefighters' pension fund shall not invest more than five percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five percent of the outstanding capital stock of that company, nor shall the aggregate of its investments under this section at cost exceed 60 percent of the fund's assets;
- (3) The board of trustees shall not invest more than 25 percent of plan assets in foreign securities on a market-value basis.

(Code 1959, § 15-18; Ord. No. 96-32, § 1, 9-9-1996; Ord. No. 98-31, § 2, 9-17-1998; Ord. No. 05-24, § 1, 8-4-2005; Ord. No. 10-06, § 1, 6-3-2010)

Sec. 70-69. - Retirement age.

Firefighters shall be eligible for normal retirement benefits at age 55 years and after completing at least ten years of service as a firefighter or age 52 years with 25 years of contributing service.

(Code 1959, § 15-20)

Sec. 70-70. - Definition of "average final compensation."

- (a) Average final compensation for a full-time firefighter means one-twelfth of the average annual compensation of the five best years of the last ten years of creditable service prior to retirement, termination or death, or the career average as a full-time firefighter since July 1, 1953, whichever is greater. Accumulated leave paid at retirement in a lump sum is included in average final compensation. A year shall be 12 consecutive months.
- (b) The average final compensation for a volunteer firefighter means the average salary of the ten best contributing years prior to change in status to a permanent full-time firefighter or retirement as a volunteer firefighter or the career average of a volunteer firefighter since July 1, 1953, whichever is greater. A year shall be 12 consecutive months.

(Code 1959, § 15-21; Ord. No. 96-33, § 1, 9-9-1996)

Cross reference— Definitions generally, § 1-2.

Sec. 70-71. - Firefighter disability benefits.

Firefighters shall be entitled to disability benefits as follows:

- (1) A firefighter may retire from the service of the city under the plan if, prior to his normal retirement date, the firefighter becomes totally and permanently disabled as defined in subsection (2) of this section by reason or any cause other than a cause set out in subsection (3) of this section on or after the effective date of the plan. Such retirement shall be referred to as "disability retirement."
- (2) A firefighter will be considered totally disabled if, in the opinion of the board of trustees, he is wholly prevented from rendering useful and efficient service as a firefighter; and a firefighter will be considered permanently disabled if, in the opinion of the board of trustees, such firefighter is likely to remain so disabled continuously and permanently from a cause other than as specified in subsection (3) of this section.
- (3) A firefighter will not be entitled to receive any disability retirement income if the disability is a result of:
 - a. Excessive and habitual use by the firefighter of drugs, intoxicants or narcotics.

- b. Injury or disease sustained by the firefighter while willfully and illegally participating in fights, riots or civil insurrections, or while committing a crime.
 - c. Injury or disease sustained by the firefighter while serving in any armed forces.
 - d. Injury or disease sustained by the firefighter after his employment has terminated.
- (4) No firefighter shall be permitted to retire under the provisions of this section until examined by a duly qualified physician or surgeon, to be selected by the board of trustees for that purpose, and is found to be disabled in the degree and in the manner specified in this section. Any firefighter retiring under this section shall be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons, to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.
- (5) The benefit payable to a firefighter who retires from the city due to total and permanent disability as a direct result of a disability commencing prior to his normal retirement date is the monthly income payable for ten years certain and life for which, if the firefighter's disability occurred in the line of duty, his monthly benefit shall be the accrued retirement benefit, but shall not be less than 65 percent of his average monthly salary at the time of disability. If the disability is other than in the line of duty, the firefighter's monthly benefit shall be the accrued normal retirement benefit, but shall not be less than 25 percent of his average monthly salary at the time of disability.
- (6) a. The monthly retirement income to which a firefighter is entitled in the event of his or her disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement, and any portion due for a partial month shall be paid together with the first payment.
- b. The last payment will be:
- 1. If the firefighter recovers from the disability, the payment due next preceding the date of such recovery; or
 - 2. If the firefighter dies without recovering from the disability, the payment due next preceding his or her death or the 120th monthly payment, whichever is later.
- c. In lieu of the benefit payment as provided in this subsection, a firefighter may select an option form as provided in F.S. § 175.171.
- d. Any monthly retirement income payments due after the death of a disabled firefighter shall be paid to the firefighter's designated beneficiary (or beneficiaries) as provided in F.S. §§ 175.181 and 175.201.
- (7) If the board of trustees finds that a firefighter who is receiving a disability retirement income is, at any time prior to his normal retirement date, no longer disabled, the board of trustees shall direct that the disability retirement income be discontinued. "Recovery from disability" means the ability of the firefighter to render useful and efficient service as a firefighter.
- (8) If the firefighter recovers from disability and reenters as a firefighter, his service shall be deemed to have been continuous; but the period beginning with the first month for which he received a disability retirement income payment and ending with the date he reentered service will not be considered as credited service for the purpose of the plan.

(Code 1959, § 15-22; Ord. No. 99-30, §§ 1, 2, 11-18-1999; Ord. No. 00-24, §§ 1, 2, 9-21-2000; Ord. No. 03-66, §1, 1-6-2004)

Sec. 70-72. - Reentry of eligible participants into the firefighters' pension fund.

If a participant who has withdrawn from the firefighters' pension plan is rehired and is eligible to be a participant in the plan within 24 months of withdrawal and termination, the firefighter may reenter the plan at withdrawal level provided the participant repays to the plan the sum equal to the amount the participant withdrew at termination together with interest at the rate of actuarial assumption at the date of the last actuarial study. If the firefighter had not withdrawn his money from the plan, the interest would not be assessed. The payment shall be made within 60 days of rehire or the privilege shall lapse and the firefighter will enter the plan as any other newly employed firefighter. The provision of this section shall not be retroactive.

(Code 1959, § 15-23)

Sec. 70-73. - Direct transfers of eligible rollover distributions.

- (a) *Generally.* This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the system to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Direct rollover means a payment by the plan to the eligible retirement plan specified by the distributee.

Distributee means an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.

Eligible retirement plan means an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, an annuity plan described in section 403(a) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Eligible rollover distribution means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includable in gross income.

(Ord. No. 94-34, § 1, 12-1-1994)

Sec. 70-74. - Death prior to retirement; refunds or contributions or payment of death benefits.

- (a) If a firefighter dies before being eligible to retire, the heirs, legatees, beneficiaries, or personal representatives of such deceased firefighter shall be entitled to a refund of 100 percent, without interest, of the contribution made to the firefighters' pension trust fund by such deceased firefighter or, in the event an annuity or life insurance contract has been purchased by the board

of trustees on such firefighter, then to the death benefits available under such life insurance or annuity contract, subject to the limitations on such death benefits set forth in F.S. § 175.081, whichever amount is greater.

- (b) If a firefighter having at least ten years of credited service dies prior to retirement, his or her beneficiary is entitled to the benefits otherwise payable to the firefighter at early or normal retirement age.
- (c) In the event that a death benefit paid by a life insurance company exceeds the limits set forth in F.S. § 175.081, the excess of the death benefit over the limit shall be paid to the firefighters' pension trust fund. However, death benefits as provided pursuant to F.S. § 112.191 or any other state or federal law shall not be included in the calculation of death or retirement benefits provided by this article.

(Ord. No. 01-11, § 1, 5-17-2001)

Sec. 70-75. - Deferred retirement option plan.

- (a) A deferred retirement option plan (DROP) is hereby created.
- (b) A member who is eligible for normal retirement shall be eligible to enter the deferred retirement option plan beginning on the first day of the month following their eligibility for normal retirement or on the first day of any month thereafter. Participation in the deferred retirement option plan shall be limited to 60 consecutive months. As of the first day of each month of a member's period of participation in the deferred retirement option plan, the monthly retirement benefit he or she would have received under the system had the firefighter terminated employment as a firefighter and elected to receive monthly benefit payments thereunder, shall be transferred to a deferred retirement option plan account created for the member under the system.
- (c) Upon entry into the deferred retirement option plan, a member shall be considered a retired member of the system. The member's benefits shall be calculated as if the member had actually separated from service and no further credited service salary increases, or system changes (except for any additional benefits provided under any cost-of-living adjustment for retirees in the system) shall apply to a member in the deferred retirement option plan for purposes of determining the member's benefit under the system. In all other respects however, the member shall remain an active member of the fire department and otherwise be eligible for all other contractual and job benefits.
- (d) Upon entry into the deferred retirement option plan, a member shall not be permitted to contribute to the system and shall no longer be eligible for disability or retirement death benefits. In the event that a member suffers a disabling injury, the member shall commence a regular service retirement. In the event that a member in the deferred retirement option plan shall die, the member shall be treated the same as any other retired member who dies and any survivorship option which the member may have elected shall be paid in accordance with the provisions of the system. In the event of the death of a member, the deferred retirement option plan benefit shall be distributed to the named beneficiary or beneficiaries. In the event that no beneficiary has been named by the member, the deferred retirement option plan account balance shall be paid to the member's estate.
- (e) By entering into the deferred retirement option plan, a member agrees to terminate active service with the fire department not later than 60 months following the date of entry into the deferred retirement option plan. Nothing shall prohibit a member who has entered the deferred retirement option plan or the city from terminating service prior to the expiration of 60 months.

- (f) Upon separation from service and the commencement of the receipt of retirement benefits, a member shall be eligible for distribution of the deferred retirement option plan account. The deferred retirement option plan account may be distributed in a lump sum, may be rolled over to another qualified retirement system, may be made in periodic payments, or any other form approved by the board of trustees. In no instance shall the method of distribution result in the payment of any amount which exceeds the balance in the deferred retirement option plan account.
- (g) A member's participation in the deferred retirement option plan shall cease by:
 - (1) Continuation of his employment as a firefighter at the end of his period of participation in the deferred retirement option plan as determined under subsection (e) of this section.
 - (2) Termination of his employment as a firefighter.

Upon the member's termination of participation in the deferred retirement option plan, all amounts provided for in subsection (b) of this section, including monthly benefits and investments earnings and losses and interest, shall cease to be transferred from the system to his deferred retirement option plan account. A member who terminates his participation in the deferred retirement option plan under this section shall not be permitted to again become a participant in the deferred retirement option plan.

- (h) A member's deferred retirement option plan account shall be debited or credited after each fiscal year quarter with either: (i) interest at the rate applicable to the Florida Retirement System deferred retirement option plan for the calendar quarter immediately preceding the system's deferred retirement option plan calculation, or (ii) earnings, determined as follows: the average daily balance in a member's deferred retirement option plan account shall be credited or debited at a rate equal to the actual net rate of investment return realized by the system for that quarter. "Net rate of investment return" for the purpose of this subsection is the total return of the assets in which the member's deferred retirement option plan account is invested by the board net of brokerage commissions, transaction costs and management fees. Upon electing participating in the deferred retirement option plan, the member shall elect to receive either interest or earnings on his account to be determined as provided above. The member may, in writing, elect to change his election only once during his deferred retirement option plan participation. An election to change must be made prior to the end of a quarter and shall be effective beginning the following quarter. A member's deferred retirement option plan account shall only be credited or debited with earnings or interest and monthly benefits while the member is a participant in the deferred retirement option plan and after the member dies, retires, or terminates his employment as a firefighter. If a member is employed by the city fire department after electing to cease participation in the deferred retirement option plan account pursuant to subsection (g) of this section or after participating in the deferred retirement option plan for five years, then beginning with the next payment following cessation of participation or beginning with the member's 61st month of deferred retirement option plan participation, whichever occurs first, the member's deferred retirement option plan account will no longer be credited or debited with earnings or interest, nor will monthly benefits be transferred to the deferred retirement option plan account. All such nontransferred amounts shall be forfeited and continue to be forfeited while the member is employed by the city fire department. A member employed by the city fire department after five years of deferred retirement option plan participation will not be eligible for preretirement death or disability benefits, nor will he or she accrue additional credited service.

- (i) Effect of deferred retirement option plan participation on employment. Participation in the deferred retirement option plan is not a guarantee of employment and deferred retirement option plan participants shall be subject to the same employment standards and policies that are applicable to employees who are not deferred retirement option plan participants.

(Ord. No. 05-24, § 2, 8-4-2005)

Secs. 70-76—70-100. - Reserved.