

city commission. Upon receipt of the fifth person's name, the city commission shall, as a ministerial duty, appoint such person to the board of trustees as its fifth trustee. The term of all trustees, beginning with the first term beginning after the effective date of the ordinance adopting the change to this subsection, shall be four years. The fifth trustee shall have the same rights as each of the other four trustees appointed or elected as herein provided and shall serve a four-year term unless he sooner vacates the office. Each resident trustee shall serve as trustee for a period of four years, unless he sooner vacates the office or is sooner replaced by the city commission at whose pleasure he shall serve. Each member trustee shall serve as trustee for a period of four years, unless he sooner leaves the employment of the city as a firefighter or police officer or otherwise vacates his office as trustee, whereupon a successor shall be chosen in the same manner as the departing trustee. Each trustee may succeed himself in office. DROP participants can be elected as but not vote for elected trustees. The board shall establish and administer the nominating and election procedures for each election. The board shall meet at least quarterly each year. The board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

(b) The trustees shall, by a majority vote, elect a chairman and a secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

(c) Each trustee shall be entitled to one vote on the board. Three affirmative votes shall be necessary for any decision by the trustees at any meeting of the board. A trustee shall have the right to abstain from voting as the result of a conflict of interest provided that trustee complies with the provisions of F.S. § 112.3143.

(d) The board shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the system.

The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the system shall be paid from the fund at such rates and in such amounts as the board shall agree. In the event the board chooses to use the city's legal counsel, actuary or other professional, technical or other advisors, it shall do so only under terms and conditions acceptable to the board.

(e) The duties and responsibilities of the board shall include, but not necessarily be limited to, the following:

- (1) To construe the provisions of the system and determine all questions arising thereunder.
- (2) To determine all questions relating to eligibility and membership.
- (3) To determine and certify the amount of all retirement allowances or other benefits hereunder.
- (4) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the system.
- (5) To distribute to members, at regular intervals, information concerning the system.
- (6) To receive and process all applications for benefits.
- (7) To authorize all payments whatsoever from the fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the system and fund.
- (8) To have performed actuarial studies and valuations, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the system.
- (9) To perform such other duties as are required to prudently administer the system.

(Ord. No. 00-22, § 1, 2-24-00; Ord. No. 16-60, § 2, 11-10-16; Ord. No. 22-03, § 1, 2-24-22)

**Sec. 54-189. Finances and fund management.**

Establishment and operation of fund:

- (1) As part of the system, there is hereby established the fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the system, including the assets of the prior pension plan for firefighters and police officers.
- (2) The actual custody and supervision of the fund (and assets thereof) shall be vested in the board. Payment of benefits and disbursements from the fund shall be made by the disbursing agent but only upon written authorization from the board.
- (3) All funds of the pension plan for firefighters and police officers may be deposited by the board with the finance director of the city, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safe-keeping of funds for the city. However, any funds so deposited with the finance director of the city shall be kept in a separate fund by the finance director or clearly identified as such funds of the pension plan for firefighters and police officers. In lieu thereof, the board shall deposit the funds of the pension plan for firefighters and police officers in a qualified public depository as defined in F.S. § 280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of F.S. ch. 280. In order to fulfill its investment responsibilities as set forth herein, the board may retain the services of a custodian bank, an investment advisor registered under the Investment Advisors Act of 1940 or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment

manager shall have discretion, subject to any guidelines as prescribed by the board, in the investment of all fund assets.

- (4) All funds and securities of the system may be commingled in the fund, provided that accurate records are maintained at all times reflecting the financial composition of the fund, including accurate current accounts and entries as regards the following:
  - a. Current amounts of accumulated contributions of members on both an individual and aggregate account basis;
  - b. Receipts and disbursements;
  - c. Benefit payments;
  - d. Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the city;
  - e. All interest, dividends and gains (or losses) whatsoever; and
  - f. Such other entries as may be properly required so as to reflect a clear and complete financial report of the fund.
- (5) An audit shall be performed annually by a certified public accountant for the most recent fiscal year of the system showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.
- (6) The board shall have the following investment powers and authority:
  - a. The board shall be vested with full legal title to said fund, subject, however, and in any event to the authority and power of the city commission to amend or terminate this

- fund, provided that no amendment or fund termination shall ever result in the use of any assets of this fund except for the payment of regular expenses and benefits under this system, except as otherwise provided herein. 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.
- b. All monies paid into or held in the fund shall be invested and reinvested by the board and the investment of all or any part of such funds shall include but not be limited to:
1. Annuity and life insurance contracts with life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the members in the fund shall be entitled under the provisions of this system and pay the initial and subsequent premium thereon.
  2. Time or savings accounts of a national bank, a state bank insured by the bank insurance fund or a savings/building and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.
  3. Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States.
4. Bonds issued by the State of Israel.
  5. Stocks, commingled funds administered by national or state banks, mutual funds and bonds or other evidences of indebtedness, provided that:
    - (a) Except as provided in paragraph (b) below, all individually held securities and all securities in a commingled or mutual fund must be 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.
    - (b) Up to 25 percent of the assets of the fund at market value may be invested in foreign securities.
    - (c) The board shall not invest more than five percent of its assets in the common stock, capital stock, or convertible securities 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.
  6. The board may invest in real estate directly or through an investment vehicle approved by the board.
  7. All monies paid into or held in the fund shall be invested and the investment of all or any part of such funds shall be subject to the following:
    - (a) Notwithstanding any limitation in prior city ordinances to the contrary,

all monies paid into or held in the fund may be invested and reinvested in such securities, investment vehicles or property wherever situated and of whatever kind, as shall be approved by the board, including but not limited to common or preferred stocks, bonds, and other evidences of indebtedness or ownership.

- (b) The board shall develop and adopt a written investment policy statement setting forth permissible types of investments, goals and objectives of investments and setting quality and quantity limitations on investments in accordance with the recommendations of its investment consultants. The investment policy statement shall be reviewed by the board at least annually.
- (c) In addition, the board may, upon recommendation by the board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81100, Revenue Ruling 2011-1, IRS Notice 2012-6 and Revenue Ruling 2014-24 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans

qualified under Section 401(a) of the Code, individual retirement accounts that are exempt under section 408(e) of the Code, eligible governmental plans that meet the requirements of Section 457(b) of the Code, and governmental plans under Section 401(a)(24) of the Code. For this purpose, a trust includes a custodial account or a separate tax favored account maintained by an insurance company that is treated as a trust under Section 401(f) or under Section 457(g)(3) of the Code. While any portion of the assets of the fund are invested in such a group trust, such group trust is itself adopted as a part of the system or plan.

- i. Any collective or common group trust to which assets of the fund are transferred pursuant to subsection (c) shall be adopted by the board as part of the plan by executing appropriate participation, adoption agreements, and/or trust agreements with the group trust's trustee.
- ii. The separate account maintained by the group trust for the plan pursuant to subsection (c) shall not be used for, or diverted to, any purpose other than for the exclusive

- benefit of the members and beneficiaries of the plan.
- iii. For purposes of valuation, the value of the separate account maintained by the group trust for the plan shall be the fair market value of the portion of the group trust held for the plan, determined in accordance with generally recognized valuation procedures.
- c. At least once every three years, and more often as determined by the board, the board shall retain a professionally qualified independent consultant, as defined in F.S. §§ 175.071 and 185.06, to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the board at its next regularly scheduled meeting.
- d. The board may retain in cash and keep unproductive of income such amount of the fund as it may deem advisable, having regard for the cash requirements of the system.
- e. Neither the board nor any trustee shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the fund, except that due to his or its own negligence, willful misconduct or lack of good faith.
- f. The board may cause any investment in securities held by it to be registered in or transferred into its name as trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the fund.
- g. The board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the fund which it may deem to be to the best interest of the fund to exercise.
- h. The board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.
- i. Where any action which the board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as trustee under this article, can reasonably be taken or performed only after receipt by it from a member, the city, or any other entity, of specific information, certification, direction or instructions, the board shall be free of liability in failing to take such action

or perform such duty or function until such information, certification, direction or instruction has been received by it.

- j. Any overpayments or underpayments from the fund to a member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board in such a manner that the actuarial equivalent of the benefit to which the member, retiree or beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayments shall be made up from the fund in a prudent manner.
- k. The board shall sustain no liability whatsoever for the sufficiency of the fund to meet the payments and benefits provided for herein.
- l. In any application to or proceeding or action in the courts, only the board shall be a necessary party, and no member or other person having an interest in the fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.
- m. Any of the foregoing powers and functions reposed in the board may be performed or carried out by the board through duly authorized agents, provided that the board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said fund shall always remain in the board.

(Ord. No. 00-22, § 1, 2-24-00; Ord. No. 01-59, § 1, 9-13-01; Ord. No. 06-26, § 2, 7-27-06; Ord. No. 14-42, § 1, 12-11-14; Ord. No. 23-01, § 1, 3-23-23)

### Sec. 54-190. Contributions.

- (a) *Member contributions.*
  - (1) *Amount.* Each member of the system shall be required to make regular contributions to the fund in the amount of three and one-half percent of his salary. Member contributions withheld by the city on behalf of the member shall be deposited with the board immediately after each pay period. The contributions made by each member to the fund shall be designated as employer contributions pursuant to section 414(h) of the Code. Such designation is contingent upon the contributions being excluded from the members' gross income for Federal Income Tax purposes. For all other purposes of the system, such contributions shall be considered to be member contributions.
  - (2) *Method.* Such contributions shall be made by payroll deduction.
- (b) *State contributions.* Any monies received or receivable by reason of laws of the state, for the express purpose of funding and paying for retirement benefits for firefighters and police officers of the city shall be deposited in the fund comprising part of this system immediately and under no circumstances more than five days after receipt by the city.
- (c) *City contributions.* So long as this system is in effect, the city shall make quarterly contributions to the fund in an amount equal to the required city contribution as shown by the applicable actuarial valuation of the system.
- (d) *Other.* Private donations, gifts and contributions may be deposited to the fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources may be used only for additional benefits for members, as determined by the board, and may not be used to reduce what would have otherwise been required city contributions.

(Ord. No. 00-22, § 1, 2-24-00; Ord. No. 09-03, § 2, 3-12-09; Ord. No. 11-32, § 1, 10-27-12; Ord. No.

16-60, § 3, 11-10-16; Ord. No. 16-61, § 1, 12-6-16; Ord. No. 17-35, § 1, 9-28-17; Ord. No. 22-03, § 2, 2-24-22)

**Sec. 54-191. Benefit amounts and eligibility.**

(a) *Normal retirement age and date.* A member's normal retirement age is the earlier of the attainment of age 55 and the completion of six years of credited service or the completion of 25 years of credited service, regardless of age. Each member shall become 100 percent vested in his accrued benefit at normal retirement age. A member's normal retirement date shall be the first day of the month coincident with or next following the date the member retires from the city after attaining normal retirement age.

(b) *Normal retirement benefit.* A member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his retirement and be continued thereafter during member's lifetime, ceasing upon death, but with 120 monthly payments guaranteed in any event. The monthly retirement benefit shall equal three percent of average final compensation for all years of credited service, provided, however, that the monthly benefit shall not exceed 95 percent of average final compensation, but in any event, the benefit shall not be less than two and three-quarters percent of average final compensation for each year of credited service.

(c) *Early retirement date.* A member may retire on his early retirement date which shall be the first day of any month coincident with or next following the attainment of age 50 and the completion of six years of credited service. Early retirement under the system is retirement from employment with the city on or after the early retirement date and prior to the normal retirement date.

(d) *Early retirement benefit.* A member retiring hereunder on his early retirement date may receive either a deferred or an immediate monthly retirement benefit payable in the same form as for normal retirement as follows:

- (1) A deferred monthly retirement benefit which shall commence on what would

have been his normal retirement date, determined based upon his actual years of credited service, and shall be continued on the first day of each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement on his normal retirement date, determined based upon his actual years of credited service, except that credited service and average final compensation shall be determined as of his early retirement date; or

- (2) An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in paragraph a. above, reduced by three percent for each year by which the commencement of benefits precedes age 55.

(e) *Required distribution date.* The member's benefit under this section must begin to be distributed to the member no later than the member's required beginning date, as provided under section 54-201.

(Ord. No. 00-22, § 1, 2-24-00; Ord. No. 01-59, § 2, 9-13-01; Ord. No. 07-54, § 1, 11-29-07; Ord. No. 09-03, § 3, 3-12-09; Ord. No. 10-13, § 1, 4-8-10; Ord. No. 16-60, § 4, 11-10-16; Ord. No. 16-61, § 2, 12-6-16; Ord. No. 22-03, § 3, 2-24-22)

**Sec. 54-192. Pre-retirement death.**

(a) *Prior to vesting or eligibility for retirement.* The beneficiary of a deceased member who was not receiving monthly benefits or who was not yet vested or eligible for early or normal retirement shall receive a refund of 100 percent of the member's accumulated contributions.

(b) *Deceased members vested or eligible for retirement with spouse as beneficiary.* This subsection (b) applies only when the member's spouse is the sole designated beneficiary. The spouse beneficiary of any member who dies and who, at the date of his death was vested or eligible for early or normal retirement, shall be entitled to a benefit as follows:

- (1) If the member was vested, but not eligible for normal or early retirement, the spouse

beneficiary shall receive a benefit payable for ten years, beginning on the date that the deceased member would have been eligible for early or normal retirement, at the option of the spouse beneficiary. The benefit shall be calculated as for normal retirement based on the deceased member's credited service and average final compensation as of the date of his death and reduced as for early retirement, if applicable. The spouse beneficiary may also elect to receive an immediate benefit, payable for ten years, which is actuarially reduced to reflect the commencement of benefits prior to the early retirement date.

- (2) If the deceased member was eligible for normal or early retirement, the spouse beneficiary shall receive a benefit payable for ten years, beginning on the first day of the month following the member's death or at the deceased member's otherwise normal retirement date, at the option of the spouse beneficiary. The benefit shall be calculated as for normal retirement based on the deceased member's credited service and average final compensation as of the date of his death and reduced as for early retirement, if applicable.
- (3) A spouse beneficiary may not elect an optional form of benefit, however, the board may elect to make a lump sum payment pursuant to section 54-195 subsection (g).
- (4) A spouse beneficiary may, in lieu of any benefit provided for in subsection (1) or (2) above, elect to receive a refund of the deceased member's accumulated contributions.
- (5) Notwithstanding anything contained in this section to the contrary, in any event, distributions to the spouse beneficiary will begin no later than the beginning date provided under section 54-201, subsection (b)(2)a.
- (6) If the surviving spouse beneficiary commences receiving a benefit under subsec-

tion (1) or (2) above, but dies before all payments are made, the actuarial value of the remaining benefit will be paid to the spouse beneficiary's estate in a lump sum.

(c) *Deceased members vested or eligible for retirement with non-spouse beneficiary.* This subsection applies only when the member's spouse is not the beneficiary or is not the sole designated beneficiary, but there is a surviving beneficiary. The beneficiary of any member who dies and who, at the date of his death was vested or eligible for early or normal retirement, shall be entitled to a benefit as follows:

- (1) If the member was vested, but not eligible for normal or early retirement, the beneficiary will receive a benefit payable for ten years. The benefit will begin by December 31 of the calendar year immediately following the calendar year in which the member died. The benefit will be calculated as for normal retirement based on the deceased member's credited service and average final compensation and actuarially reduced to reflect the commencement of benefits prior to the normal retirement date.
- (2) If the deceased member was eligible for normal or early retirement, the beneficiary will receive a benefit payable for ten years, beginning on the first day of the month following the member's death. The benefit will be calculated as for normal retirement based on the deceased member's credited service and average final compensation as of the date of his death and reduced for early retirement, if applicable.
- (3) A beneficiary may not elect an optional form of benefit, however the board may elect to make a lump sum payment pursuant to section 54-195, subsection (g).
- (4) A beneficiary, may, in lieu of any benefit provided for in subsection (1) or (2) above, elect to receive a refund of the deceased member's accumulated contributions.