

Law Offices

Christiansen & Dehner, P.A.

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May 9, 2019

Mr. J.P. Murphy
Town of Belleair
901 Ponce de Leon Blvd.
Belleair, Florida 34616-1096

Re: Town of Belleair Municipal Police Officers' Retirement Plan - Proposed Ordinance

Dear Mr. Murphy:

As you know, I represent the Board of Trustees of the Town of Belleair Municipal Police Officers' Retirement Plan. Enclosed please find a proposed ordinance amending the Town of Belleair Municipal Police Officers' Retirement Plan which is recommended by the Board for adoption by the Town. With changes to the Internal Revenue Code (IRC) and its associated Regulations, as well as guidance from the Internal Revenue Service (IRS) and recent litigation, the following amendments to the pension plan are proposed:

1. Section 42-79, Reemployment After Retirement, is being amended to make several changes as required by the Internal Revenue Code to satisfy the qualification requirements applicable to the reemployment of a disability retiree.
2. Section 42-85, Miscellaneous Provisions, is being amended to add subsection (j), Missing Benefit Recipients. This provision is in accordance with a recent IRS Programs Compliance Memorandum that requires plans to have an approved method for locating terminated individuals who are due benefits from the plan.
3. Section 42-208, Disability benefits in line of duty, is being amended to more clearly identify those individuals who may be eligible to apply for a disability pension in the event that they have resigned or their employment is terminated. This clarification does not change the way in which this provision has been applied or interpreted in the past. This change is being made because the current language has been challenged in litigation as being unclear and has resulted in unintended application of the language. The recommended change clarifies the language with no change in the intended application.
4. Section 42-209, Disability benefits not in line of duty, is being amended to more clearly identify those individuals who may be eligible to apply for a disability pension in the event that they have resigned or their employment is terminated. This

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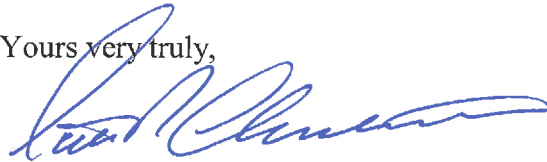
clarification does not change the way in which this provision has been applied or interpreted in the past. This change is being made because the current language has been challenged in litigation as being unclear and has resulted in unintended application of the language. The recommended change clarifies the language with no change in the intended application.

5. Section 42-215, Maximum Pension, is being amended by amending subsection (8) to provide for specific IRC requirements.

I am enclosing a copy of a letter from the Board's actuary, Foster & Foster, Inc., indicating that there is no cost associated with the adoption of this ordinance.

If you or any member of your staff have any questions with regard to this ordinance, please feel free to give me a call. In addition, if you feel it would be appropriate for me to be present at the meeting at which this ordinance is considered by the Town Commission, please contact my office to advise me of the date that the ordinance would be considered.

Yours very truly,



Scott R. Christiansen

SRC/ksh
enclosure

cc: Donna Carlen, without enclosure

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF BELLEAIR AMENDING CHAPTER 42, ARTICLE III, MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM, DIVISION 1, GENERALLY, DIVISION 4, MEMBERSHIP AND DIVISION 6, BENEFITS AND ELIGIBILITY, OF THE CODE OF ORDINANCES OF THE TOWN OF BELLEAIR; AMENDING SECTION 42-79, REEMPLOYMENT AFTER RETIREMENT; ADDING SECTION 42-85, MISSING BENEFIT RECIPIENTS; AMENDING SECTION 42-208, DISABILITY BENEFITS IN LINE OF DUTY; AMENDING SECTION 42-209, DISABILITY NOT IN LINE OF DUTY; AMENDING SECTION 42-215, MAXIMUM PENSION; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF BELLEAIR, FLORIDA;

SECTION 1: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-79, Reemployment after retirement, by amending subsection (a), adding subsection (e), *After disability retirement* and renaming the remaining subsection, to read as follows:

(a) Any retiree under this system, ~~except for disability retirement as previously provided for,~~ may be reemployed by any public or private employer, except the town, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this system. Notwithstanding the previous sentence, reemployment by the town shall be subject to the limitations set forth in this section.

* * *

(e) *After disability retirement.*

- (1) Subject to paragraph (2) below, any retiree who is retired under Section 42-208., Disability benefits in line of duty or Section 42-209., Disability benefits not in line of duty, ("disability retiree"), may, subject to Section 42-211, Physical examination requirement for disability benefits, be reemployed by any public or private employer, and may receive compensation from that employment without limiting or restricting in any way, the retirement benefits payable under this system.
- (2) Any disability retiree who subsequently becomes an employee of the town in any capacity, except as a police officer, shall discontinue receipt of disability benefits from the system for the period of any such employment.
- (3) If a disability retiree is reemployed as a police officer for the town, his disability benefit shall cease and Section 42-211, shall apply.

(e f) *Reemployment of terminated vested persons.* Reemployed terminated vested persons shall not be subject to the provisions of this section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early retirees for purposes of applying the provisions of this section and their status as an early or normal retiree shall be determined by the date they elect to begin to receive their benefit.

SECTION 2: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by adding Section 42-85, Missing benefit recipients, to read as follows:

Secs. 42-85 ~~86~~–42-90.-Reserved.

Sec. 42-85. - Missing benefit recipients.

Missing benefit recipients. The system shall follow the procedures outlined in the IRS Employee Plans Compliance Resolution System (EPCRS) Program and other applicable IRS guidance to locate any missing individuals to whom a full unreduced benefit payment is due and if, at the conclusion of such efforts, the individual cannot be located, the existing procedure of cancelling payments otherwise due (provided that, if the individual is later located, the benefits due shall be paid) will apply.

SECTION 3: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-208, Disability in line of duty, to read as follows:

Sec. 42-208. - Disability benefits in line of duty.

(a) Any member who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a police officer, which disability was directly caused by the performance of his duty as a police officer shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to three and one-half percent of his average final compensation multiplied by the total years of credited service, but shall not be less than 42 percent of his average final compensation as of his disability retirement date. ~~Terminated persons, either vested or nonvested are not eligible for disability benefits. Notwithstanding the previous sentence, if a member is terminated by the city for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the board otherwise determines that he is totally and permanently disabled as provided for above.~~ Eligibility requirements for disability benefits are set forth in subsection (c), below.

* * *

(c) *Eligibility for disability benefits.* Subject to (c)(4) below, only active members of the system on the date the board determines entitlement to a disability benefit are eligible for disability benefits.

- (1) Terminated persons, either vested or non-vested, are not eligible for disability benefits.
- (2) If a member voluntarily terminates his employment, either before or after filing an application for disability benefits, he is not eligible for disability benefits.

- (3) If a member is terminated by the town for any reason other than for medical reasons, either before or after he files an application for disability benefits, he is not eligible for disability benefits.
- (4) The only exception to (1) above is:
 - a. If the member is terminated by the town for medical reasons and he has already applied for disability benefits before the medical termination, or;
 - b. If the member is terminated by the town for medical reasons and he applies within 30 days after the medical termination date.

If either (4)a., or (4)b. above applies, the member's application will be processed and fully considered by the board.

SECTION 4: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-209, Disability not in line of duty, to read as follows:

Sec. 42-209. Disability benefits not in line of duty.

(a) Any member with ten years or more credited service who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a police officer, which disability is not directly caused by the performance of his duties as a police officer shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to three and one-half percent of his average final compensation multiplied by the total years of credited service. ~~Terminated persons, either vested or nonvested, are not eligible for disability benefits. Notwithstanding the previous sentence, if a member is terminated by the city for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the board otherwise determines that he is totally and permanently disabled as provided for above.~~

(b) Eligibility for disability benefits. Subject to (b)(4) below, only active members of the system on the date the board determines entitlement to a disability benefit are eligible for disability benefits.

- (1) Terminated persons, either vested or non-vested, are not eligible for disability benefits.
- (2) If a member voluntarily terminates his employment, either before or after filing an application for disability benefits, he is not eligible for disability benefits.
- (3) If a member is terminated by the town for any reason other than for medical reasons, either before or after he files an application for disability benefits, he is not eligible for disability benefits.
- (4) The only exception to (1) above is:
 - a. If the member is terminated by the town for medical reasons and he has already applied for disability benefits before the medical termination, or;

- b. If the member is terminated by the town for medical reasons and he applies within 30 days after the medical termination date.

If either (4)a., or (4)b. above applies, the member's application will be processed and fully considered by the board.

SECTION 5: That Chapter 42, Article III, Municipal Police Officers' Retirement System, Division 6, Benefits and eligibility, of the Code of Ordinances of the Town of Belleair, is hereby amended by amending Section 42-215, Maximum pension, subsections (f) *Ten thousand dollar limit; less than ten years of service*, to read as follows:

* * *

(h) *Ten thousand dollar limit; less than ten years of service.* Notwithstanding anything in this section 42-215, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this subsection (h) of section 42-215 if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the town contributes, do not exceed \$10,000.00 for the applicable limitation year ~~and or~~ for any prior limitation year, and the town has not at any time maintained a qualified defined contribution plan in which the member participated; provided, however, that if the member has completed less than ten years of credited service with the town, the limit under this subsection (h) of section 42-215 shall be a reduced limit equal to \$10,000.00 multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten.

* * *

SECTION 6: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 7: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the Town of Belleair.

SECTION 8: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 9: That this Ordinance shall become effective thirty days after adoption.

PASSED ON FIRST READING, this _____ day of _____, 2019.

PASSED AND ADOPTED ON SECOND READING, this _____ day of _____, 2019.

MAYOR

ATTEST:

TOWN CLERK

Approved as to form:

TOWN ATTORNEY

ksh\bla\pol\02-27-19.ord

April 9, 2019

VIA EMAIL

Ms. Donna Carlen, Recording Secretary
Town of Belleair Police Officers' Retirement Plan
901 Ponce de Leon Blvd.
Belleair, FL 34616

Re: Town of Belleair
Municipal Police Officers' Retirement System

Dear Donna:

In response to Scott Christiansen's letter dated March 28, 2019, we have reviewed the proposed ordinance (identified on page 5 as ksh\bla\pol\02-27-19.ord) amending the plan as follows:

1. Section 42-79, Reemployment After Retirement, is being amended to make several changes as required by the Internal Revenue Code to satisfy the qualification requirement applicable to the reemployment of a disability retiree.
2. Section 42-85, Miscellaneous Provisions, is being amended to add subsection (j), Missing Benefit Recipients. This provisions is in accordance with a recent IRS Programs Compliance Memorandum that requires plans to have an approved method for locating terminated individuals who are due benefits from the plan.
3. Section 42-208, Disability benefits in line of duty, is being amended to more clearly identify those individuals who may be eligible to apply for a disability pension in the event that they have resigned or their employment is terminated. This clarification does not change the way in which this provision has been applied or interpreted in the past. This change is being made because the current language has been challenged in litigation as being unclear and has resulted in unintended application of the language. The recommended change clarifies the language with no change in the intended application.
4. Section 42-209, Disability benefits not in line of duty, is being amended to more clearly identify those individuals who may be eligible to apply for a disability pension in the event that they have resigned or their employment is terminated. This clarification does not change the way in which this provision has been applied or interpreted in the past. This change is being made because the current language has been challenged in litigation as being unclear and has resulted in unintended application of the language. The recommended change clarifies the language with no change in the intended application.
5. Section 42-215, Maximum Pension, is being amended by amending subsection (8) to provide for specific IRC requirements.

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We have determined that the adoption of the proposed changes will have no impact on the assumptions used in determining the funding requirements of the program. Because the changes do not result in a change in the valuation results, it is our opinion that a formal Actuarial Impact Statement is not required in support of its adoption. However, since the Division of Retirement must be aware of the current provisions of all public pension programs, it is recommended that you send a copy of this letter and a copy of the fully executed Ordinance to each of the following offices:

Mr. Keith Brinkman
Bureau of Local Retirement Systems
Division of Retirement
P. O. Box 9000
Tallahassee, FL 32315-9000

Mr. Steve Bardin
Municipal Police and Fire
Pension Trust Funds
Division of Retirement
P.O. Box 3010
Tallahassee, FL 32315-3010

If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Patrick T. Donlan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Patrick T. Donlan, ASA, EA, MAAA

cc: Scott Christiansen, Board Attorney



M E M O R A N D U M

TO: FLORIDA PUBLIC SAFETY PENSION CLIENTS

FROM: KLAUSNER, KAUFMAN, JENSEN & LEVINSON

RE: STATUTORY DEATH BENEFITS AND EXPANDED PUBLIC RECORDS EXEMPTIONS (SB 7098 & SB 248)

DATE: 5/21/2019

The purpose of this memo is to provide a summary of two recent bills which were adopted by the Florida Legislature that relate to public safety officers. While neither bill directly implicates police or firefighter pension benefits, both bills are relevant to public safety officers and plan administrators.

SB 7098/Chapter 2019-24

In addition to pension benefits under Chapters 175 and 185, Florida law also provides specified statutory death benefits that are required to be paid by cities/special districts. Death benefits for law enforcement officers are codified in Section 112.19, Fla.Stat. Death benefits for firefighters are codified in Section 112.191, Fla.Stat.

In November of 2018, Florida voters approved Amendment 7 to the Florida Constitution. Because Amendment 7 is not self-executing, the Legislature was required to amend Chapter 112 to implement Amendment 7. SB 7098 codifies Amendment 7 under Florida law and is described below.

Among other things, SB 7098 expands the coverage of statutory death benefits to include members of the U.S. Armed Forces, paramedics and EMTs. SB 7098 also increases statutory death benefits that apply under three sets of circumstances: 1) when a public safety officer is "accidentally killed," 2) when a public safety officer is "accidentally killed" during an "emergency," and 3) when a public safety officer is "intentionally killed" as a result of an "unlawful and intentional act."

SB 248/Chapter 2019-12 (Public Records Bill)

Florida's broad Public Records Law (also known as the "Sunshine Law") is codified in Chapter 119, Florida Statutes. SB 248 amends Section 119.0701 to expand the exemption for home addresses under Florida's Public Record law. While the Florida Constitution provides for public access to inspect or copy governmental records, over the years the Legislature has adopted a growing list of exceptions.

SB 248 expands the definition of "home address" to include not just the commonly used street address, but other identifying information that can be used to reveal a home address. Accordingly, the following identifying information will also be exempt from disclosure under Section 119.071(4)(d)1a's expanded definition of "home address":

the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

Note that this expansive definition includes "any other descriptive property information that may reveal the home address," when used in conjunction with other information.

By way of reminder, under Section 119.0701, the following records of a public safety officer are exempt from disclosure:

- Home address;
- Telephone number;
- Dates of birth;
- Photographs;
- All of the above for spouses and children of current or retired public safety officers;
- Places of employment of spouses and children of current or retired public safety officers;
- Names and locations of schools and day care facilities attended by the children of current or retired public safety officers.

Prior to the adoption of SB 248, the Open Government Sunset Review Act provided for a legislative review process of exemptions to the Sunshine Law. Unless periodically reenacted by the Legislature, certain exemptions were automatically repealed. SB 248 removes the automatic sunset requirement, making the exemptions discussed above permanent.

Here is a link to SB 248/Chapter 2019-12: <http://laws.flrules.org/2019/12>

Feel free to contact our office if you have any questions about the application of SB 248.