

**STORAGE NAME:** h4307.ca

**DATE:** April 18, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

**BILL #:** HB 4307

**RELATING TO:** City of Tampa, Hillsborough County (Firefighter & Police Officers Pension Fund)

**SPONSOR(S):** Representative Culp and others

**COMPANION BILL(S):** SB 2592(i)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COMMUNITY AFFAIRS
  - (2)
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

HB 4307 is a special act to facilitate negotiated pension plan improvements to the City of Tampa Firefighters and Police Officers Pension Plan. Plan improvements include extending the existing 2½% multiplier for service after 26 years; providing for normal retirement after 20 years of service; providing a 13th Check Program; and adding a Deferred Retirement Option Plan (DROP).

HB 4307 does not affect the Florida Retirement System (FRS) or the FRS Trust Fund.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

**City of Tampa Pension Fund for Firefighters and Police Officers**

The pension plan for Tampa firefighters and police, known as the City Pension Fund for Firefighters and Police Officers (Fund) was created in 1941 by Chapter 21590, Laws of Florida, and further amended by Chapters 74-613, 92-231 and 94-463, Laws of Florida.

The City of Tampa and the Hillsborough County Police Benevolent Association (PBA) entered into negotiations in June of 1997 to replace the expiring union contract, as stipulated by Chapter 447, Florida Statutes. The resulting collective-bargaining agreement was ratified by the PBA and the Tampa City Council in October of 1997. The negotiated amendments to the Fund resulted from the collective-bargaining process with the police union however, elected representatives from the firefighter unions, as well as the Fund's Board of Trustees, participated with the City and the police union in drafting these amendments which are the substance of HB 4307.

The collective-bargaining agreement requires the City to introduce and support a Special Act approving negotiated amendments to the Fund. The negotiated amendments will not have the force of law, however, unless they are approved by the Legislature through the passage of a Special Act.

Introduction of HB 4307 was subject to, among other things, confirmation by the City's Director of Finance that it does not require additional funding by the City over the funding level for the current year, and that continued funding of the Fund shall not be adversely affected or altered.

**Constitutional Provision/Public Retirement and Pensions**

Article X, Section 14, Florida Constitution, provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis.

**Chapter 112, Florida Statutes**

Part VII, chapter 112, Florida Statutes, was adopted by the Legislature to implement the provisions of Article X, Section 14, Florida Constitution. Part VII, chapter 112, Florida Statutes, also establishes minimum standards for operating and funding public employee retirement systems and plans.

**Chapters 175 and 185, Florida Statutes**

Local police and firefighter pension and retirement plans are reviewed by the Retirement Administrator of Municipal Police Officers' & Firefighters' Retirement Funds of the Bureau of Local Retirement Systems, State Division of Retirement. The statutory authority for this program is in chapters 175 and 185, Florida Statutes. The program was established to provide a uniform retirement system for the benefit of firefighters and

police officers. The retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the Municipal Police Officers' Retirement Trust Funds and the Firefighters' Pension Trust Funds.

**B. EFFECT OF PROPOSED CHANGES:**

HB 4307 is a Special Act facilitating the negotiated pension plan improvements to the City of Tampa Pension Fund for Firefighters and Police Officers. To summarize, the improvements include extending the existing 2½% multiplier for service after 26 years, providing for normal retirement after 20 years of service, providing for a 13th check program and adding a Deferred Retirement Option Plan (DROP).

This bill provides that the provisions of the pension contract are to be construed and administered in such a manner that the Fund will qualify as a qualified governmental pension plan under the provisions of the Internal Revenue Code. In addition, the bill specifies that the pension contract as prescribed in the City Code is further amended by this special act and provides that the amendments provided in this special act shall be considered as a whole, and the supplemental contract shall be signed by the members accepting all the amendments. If a member chooses not to sign, the member shall be barred from receiving said benefits and shall not be required to make the contributions as provided in this special act.

As the City of Tampa provides its police and fire pension benefits through individual contracts, this bill allows the City to enter into supplemental contracts with each of the police officers and firefighters to enact the new benefit improvements.

This bill complies with the requirements of Article X, Section 14 of the State Constitution and with the provisions of Chapter 112, Part VII, Florida Statutes.

**2½% Multiplier**

Presently, the Fund provides for a 2½% multiplier for the first 25 years of service and 2% for years in excess of 25. This bill allows a 2½% multiplier for all years of service, eliminating the provision that reduced the multiplier to 2% for all years of service in excess of 25 years. The bill also includes a grandfather provision to allow retirees who retired on or after October 1, 1986, but prior to the enactment of this act, who had more than 26 years of service to benefit from the increased multiplier, without interest.

**Retirement**

Currently, under the Fund normal retirement is age 46 and 20 years of service. HB 4307 allows a member with 20 years of service to enter DROP or retire, thereby eliminating the age requirement.

**Deferred Retirement Option Plan (DROP)**

This bill establishes a Deferred Retirement Option Plan (DROP) for members of the Fund. The DROP allows a member who is eligible for pension benefits, other than separation from service as a firefighter or police officer, to elect to participate in the

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DROP, thereby ceasing to be a member of, and ceasing to accrue any benefits under, the Fund. For all Fund purposes, the member becomes a retirant and their monthly pension installment, including credited service and average earnings freezes as of the date of entry into the DROP (DROP benefit calculation date). This plan feature allows a member to enter the DROP after 20 years of service, but no later than 30 years of service. The member may participate in the DROP for up to 5 years, or the difference between 30 years of service and the member's service as of the effective date of the member's DROP election. During DROP participation, the member is not entitled to the 13th check benefit as provided for in this act.

Upon electing to participate in the DROP, the member must submit an irrevocable notice of employment termination to take effect upon the expiration of the DROP calculation period [the DROP calculation period commences on the DROP benefit calculation date and ends on the earlier of (i) the last day of DROP eligibility or (ii) the member's separation from service or death].

The DROP accumulation includes:

- The amount of the monthly installments to which the member would have been entitled to receive from the DROP benefit calculation date to the end of the member's DROP calculation period,
- The amount of any cost of living adjustments, as provided for under the Fund, during the DROP calculation period, and
- Interest accumulation.

No payments will be made from the DROP until the conclusion of the member's DROP benefit calculation period (upon the death of a DROP participant, the named beneficiary or beneficiaries shall be entitled to receive the accumulated benefits as of the date of death). After verification of the DROP participant's termination of employment, the participant may elect to receive the DROP benefits as a lump sum payment, by rollover to another qualified plan, a combination of the foregoing, or such other form as adopted by the Board of Trustees. The form of distribution must be in accordance with the applicable provisions of the Internal Revenue Code. Payments into the DROP cease if the member is discharged.

Accumulated benefits under the DROP are not subject to assignment, garnishment, execution, attachment, or to any other legal process, except for income deduction orders pursuant to section 61.1301, F.S. and federal income tax levies. Upon termination of employment, the monthly pension installments and cost of living adjustments under the Fund, shall be paid to the member.

The Board of Trustees is given the express authority to make necessary rules to administer the DROP.

### **The 13th Check Program**

This bill initiates a 13th check program to allow the Board of Trustees to make a supplemental pension distribution commencing in January of 1999, and in January of each year thereafter. All retired members who have terminated employment as a

firefighter or police officer who are eligible to receive pension benefits for at least one year on the October 1 immediately preceding the January in which the distribution is to be made are eligible for the supplemental pension distribution. In addition, certain qualifying spouses and surviving spouses may be eligible for the supplemental pension distribution. During the DROP calculation period, a DROP participant is not eligible for the 13th check benefit. Retired firefighters, police officers, and qualifying surviving spouses who are living on the date this special act becomes a law, shall be entitled to receive the same benefits from the 13th check account on the same basis as if the member's contract had been supplemented.

The bill establishes a 13th check account within the Fund, which shall consist of employee's contributions, and the City's contributions in excess of the amount required for the normal annual cost of benefits, plus any interest. A contribution schedule is also established. The amount of the 13th check shall be the same for all retired members and the Board of Trustees must establish, by rule, the amount of the 13th check in a manner that is definitely determinable and in accordance with the requirements of the Internal Revenue Code. The bill also provides that the Fund's actuary certify that the amount of the payment will be funded on a sound actuarial basis as required under the State Constitution.

The Board of Trustees is given the express authority to make necessary rules to administer the DROP.

HB 4307 is only an enabling act and therefore, the benefits provided therein are contingent upon the bargaining units acceptance of the contract.

**C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:**

Chapter 21590, Laws of Florida, 1941, as amended by Chapters 74-613, 92-231 and 94-463, Laws of Florida.

**D. APPLICATION OF PRINCIPLES:**

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa is required to make provisions for the administration of the Deferred Retirement Option Plan (DROP) and the 13th Check Program established in this bill.

- (3) any entitlement to a government service or benefit?

Eligible members of the Fund have the option of participation in DROP which may benefit them financially upon termination of employment. Eligible members of the Fund will benefit from the 13th Check Program.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Monthly retirement benefits that would have been payable had the member terminated employment and elected to receive monthly pension benefits will be paid into the DROP over the period the retirant participates in the DROP. The balance in a member's account will be paid to the member upon termination of employment.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

This bill provides an additional option to members of the Fund that they do not have currently. They have an option to participate in a DROP that may financially benefit them upon termination of employment.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

**E. SECTION-BY-SECTION RESEARCH:**

**Section 1:** Amends the City of Tampa Firefighters and Police Officers Pension Contract to allow a 2½% multiplier for all years of service, eliminating the provision that reduced the multiplier to 2% for all years of service in excess of 25 years. Allows the City to enter into supplemental contracts with each of the police officers and firefighters to enact the new benefit improvements.

**Section 2:** Amends the City of Tampa Firefighters and Police Officers Pension Contract to include a grandfather provision to allow retirees who retired on or after October 1, 1986, but prior to the enactment of this special act, who had



more than 26 years of service to benefit from the increased multiplier in Section 1 without interest.

**Section 3:** Amends the City of Tampa Firefighters and Police Officers Pension Contract to allow a member with 20 years of service to enter the Deferred Retirement Option Plan (DROP) or retire. Eliminates the age 46 requirement. Allows the City to enter into supplemental contracts with each of the police officers and firefighters to enact the new benefit improvements.

**Section 4:** Amends the City of Tampa Firefighters and Police Officers Pension Contract to add a Deferred Retirement Option Plan (DROP) as a plan feature. Allows the City to enter into supplemental contracts with each of the police officers and firefighters to enact the new benefit improvements.

**Section 5:** Amends the City of Tampa Firefighters and Police Officers Pension Contract to add a 13th check program to allow the Board of Trustees to make a supplemental pension distribution commencing in January 1999, and each subsequent January. Allows the City to enter into supplemental contracts with each of the police officers and firefighters to enact the new benefit improvements.

**Section 6:** Amends the City of Tampa Firefighters and Police Officers Pension Contract to make clear the application of the 13th check program, to conform. Allows the City to enter into supplemental contracts with each of the police officers and firefighters to enact the new benefit improvements.

**Section 7:** Amends the City of Tampa Firefighters and Police Officers Pension Contract to provide a statement that any provision of the pension contract is to be construed and administered in such a manner that the Pension Fund will qualify as a qualified governmental pension plan under the provisions of the Internal Revenue Code. Provides that the Board of Trustees may adopt any rule necessary to retain tax qualification. Allows the City to enter into supplemental contracts with each of the police officers and firefighters to enact the new benefit improvements.

**Section 8:** Provides that each retired firefighter and police officer, and each qualifying surviving spouse, who is living on the date this special act becomes law is entitled to receive the same benefits from the 13th check account on the same basis as if the member's contract had been supplemented.

**Section 9:** Provides that the City of Tampa Firefighters and Police Officers Pension Contract, as prescribed in the City Code, is amended by this act and is, in all other respects, approved, ratified, validated and confirmed.

**Section 10:** Provides that the provisions of this special act shall be considered as a whole, and the supplemental contract shall either be signed by a member accepting all the provisions or if a member chooses not to sign, the member shall be barred from receiving said benefits and shall not be required to make contributions as provided in this proposal.

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**Section 11:** Provides that this special act is only an enabling act and that the benefits provided herein are contingent upon the bargaining units acceptance of the contract.

**Section 12:** Provides that this act shall take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 28, 1998

WHERE? Tampa Edition of the St. Petersburg Times

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? N/A

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

IV. COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Six amendments to the original bill have been presented which represent further negotiations between the interested parties. The City of Tampa, the Hillsborough County Police Benevolent Association, the Tampa Firefighters and Police Officers Retirees Association, the International Association of Firefighters, Local 754 and the Board of Trustees, City Pension Fund for Firefighters and Police Officers in the City of Tampa support the passage of HB 4307 with the six amendments. All six amendments are offered by Representative Tamarco.

**Amendment #1:** Amends Section 2 of the bill. Provides that the ½% increase in the benefit accrual rate is not payable for additional years of service after 26 years retroactive to October 1, 1986, but makes such increase effective only to those active firefighters and police officers on the date this act becomes a law.

**Amendment #2:** Amends Section 4 of the bill. Provides that a DROP participant shall be entitled to the 13th Check Program.

**Amendment #3:** Amends Section 4 of the bill. Provides that a DROP participant shall be entitled to the 13th Check Program, to conform with Amendment #2.

**Amendment #4:** Amends Section 5 of the bill. Provides that a DROP participant shall be entitled to the 13th Check Program, to conform with Amendment #2.

**Amendment #5:** Amends Section 5 of the bill. Reduces the employees' maximum amount of contribution to the 13th Check Program, but increases the employees' minimum contribution to the Program. Reduces the City's contribution to the 13th Check Program for the first three (3) years, but provides for a minimum contribution from the City after the first three (3) years. Simplifies the formula for the employees' and City's contributions to the 13th Check Program.

**Amendment #6:** Adds a new section. Provides that the initial distribution of the 13th check is contingent upon receipt of a favorable determination letter from the Internal Revenue Service stating that the 13th Check Program does not adversely impact the tax qualification of the pension plan.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

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Dawn Roberts

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Joan Highsmith-Smith