

By Representatives Starks, Brummer, Sublette, Feeney,  
Johnson and Posey

1                                   A bill to be entitled  
2           An act relating to the City of Orlando, Orange  
3           County, relating to the pension fund of the  
4           fire department of the city; amending chapter  
5           23444, Laws of Florida, 1945, as amended;  
6           expanding the definition of issue and child to  
7           include full-time students under the age of 26  
8           and physically and/or mentally handicapped  
9           children regardless of age with the additional  
10          cost thereof being borne by the members;  
11          providing benefits to dependent parents, to  
12          allow for multiple designated beneficiaries and  
13          providing for the return of deductions to the  
14          estate of a deceased member without  
15          beneficiaries with the additional actuarial  
16          cost thereof being borne by the members;  
17          providing an additional cost-of-living increase  
18          for members and beneficiaries with the  
19          additional actuarial cost thereof being borne  
20          by the members; providing for a deferred  
21          retirement option plan as an improvement to  
22          present pension benefits with the additional  
23          cost thereof being borne by the members;  
24          providing for employer pick up of member  
25          contributions; providing an effective date.

26  
27 Be It Enacted by the Legislature of the State of Florida:

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29           Section 1. Section 2 of chapter 23444, Laws of  
30 Florida, 1945, as amended, by chapter 72-573, Laws of Florida,  
31 is amended to read:

1           Section 2. (1) Members of said Fire Department shall  
2 be construed as including all officers and firefighters  
3 ~~firemen and firewomen~~ regularly employed in said department,  
4 and whose employment shall be regular and continuous and not  
5 of a temporary character, provided, however, the secretaries,  
6 stenographers, and switchboard operators shall not be covered  
7 by the provisions of this act. For the purposes of this act  
8 the term "widow" shall include widower; reference to the  
9 masculine pronoun shall include the feminine and vice versa;  
10 the term "issue" shall include a member's natural and adopted  
11 children as well as children in gestation.

12           (2) After the effective date of this act, and  
13 notwithstanding anything to the contrary in this act or this  
14 plan, and further notwithstanding any requirement of the act  
15 or the plan that a child or issue be under the age of 18, the  
16 term "issue" or "child" shall include: children that are  
17 full-time students under the age of 26; and, physically and/or  
18 mentally handicapped children for their natural lives. A  
19 physically and/or mentally handicapped child includes children  
20 primarily dependent upon the member or retiree due to a mental  
21 or physical condition which requires, or otherwise would have  
22 required, the member or retiree to provide primary support.  
23 Any actuarially determined additional cost resulting from  
24 including full-time students and handicapped children within  
25 the definition of issue shall be borne by the members of the  
26 firefighters pension plan.

27           Section 3. Section 13 of chapter 23444, Laws of  
28 Florida, 1945, as amended, by chapter 74-556, Laws of Florida,  
29 is amended to read:

30           Section 13. (1) If a deceased member of ~~the~~ said fire  
31 department, active or retired, shall leave no spouse ~~widow~~

1 surviving him or her and shall not leave surviving him or her  
2 a child or children in being and his or her issue and under  
3 the age of 18 ~~eighteen (18)~~ years, but shall leave a parent or  
4 parents ~~mother~~ surviving him or her who are ~~is~~ entirely  
5 dependent upon said member for support, his or her parent or  
6 parents ~~mother~~ shall receive the same pension to which his or  
7 her spouse ~~widow~~ would have been entitled, unless and until  
8 such parent or parents become ~~mother becomes~~ self-supporting  
9 or remarries. In the event the parents are no longer married,  
10 the pension shall be divided and paid, on a per capita basis,  
11 to each parent; should one parent become self-supporting,  
12 remarry, or die, the entire amount of the pension shall be  
13 paid to the other parent.

14 (2) If said deceased member shall not have received  
15 any moneys ~~monies~~ under section 12 or section 18 of this  
16 pension act, as amended, and shall leave no surviving widow or  
17 widower, child under the age of 18 ~~eighteen (18)~~ years or  
18 dependent parent or parents ~~mother~~, then one-half ( $1/2$ ) of the  
19 amount that has been deducted from said member's salary under  
20 this act up to the effective date of section 3 of chapter  
21 72-633, Laws of Florida, ~~Special Acts of 1972~~ and all of said  
22 deductions made thereafter shall be paid ~~that~~ the certain  
23 individual or individuals ~~who has been~~ previously designated  
24 by said deceased member. Such designation shall be in writing  
25 and shall be filed with the secretary of the pension board; it  
26 shall designate a choice of one or more persons, named  
27 sequentially or jointly as beneficiaries in the event of the  
28 member or retiree's death; said designations may be revoked by  
29 the member or retiree filing a new written designation with  
30 the secretary of the pension board. ~~indicate only one (1)~~  
31 ~~individual but shall be changed upon the written request of~~

1 ~~the member.~~In the event the deceased member shall not have  
2 designated an individual or individuals to receive the  
3 aforesaid deductions, or in the event ~~the said~~ designated  
4 individual or individuals shall predecease said member or  
5 shall die within 30 ~~thirty (30)~~ days of the date of death of  
6 ~~the said~~ member, then the aforesaid deductions shall be paid  
7 to the deceased member's estate.~~remain with and become the~~  
8 ~~property of the pension fund and any others claiming by,~~  
9 ~~through, under or against said member or designated individual~~  
10 ~~shall have no rights under this act.~~

11 (3) Any actuarially determined additional cost  
12 resulting from amendments to this section extending benefits  
13 to dependent parents in subsection (1) and providing for  
14 multiple beneficiaries and deductions paid to the estate in  
15 the absence of designated beneficiaries in subsection (2),  
16 shall be borne by the members of the firefighters' pension  
17 plan.

18 Section 4. Section 19 of chapter 23444, Laws of  
19 Florida, as created by chapter 88-518, Laws of Florida, is  
20 amended to read:

21 Section 19. (1) ~~After the effective date of this act,~~  
22 Any member of the Orlando Fire Department who, on or after  
23 July 7, 1988, and prior to the effective date of this act,  
24 retired ~~retires~~ prior to age 62 with 25 or more years of  
25 credited service shall receive a triennial cost-of-living  
26 increase of 5 percent compound starting 3 years after  
27 retirement and ending with the last triennial anniversary of  
28 retirement prior to age 65. ~~Any actuarially determined~~  
29 ~~additional cost resulting from this additional benefit shall~~  
30 ~~be borne by the members of the firefighters pension plan.~~

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1           (2) On or after the effective date of this act, any  
2 member of the Orlando Fire Department who retires, or in the  
3 event of his death, his beneficiaries, shall receive an annual  
4 cost-of-living increase of 2 percent compound starting on the  
5 first anniversary of the receipt of benefits under this plan  
6 and on each subsequent anniversary date of the receipt of  
7 benefits under this plan. The anniversary date for  
8 beneficiaries receiving a pension as a result of the death of  
9 a retiree who was receiving a benefit at the time of his death  
10 shall be the date on which the retiree began to receive his  
11 pension.~~The benefit provided for in subsection (1), with the~~  
12 ~~additional cost thereof being borne by the members, shall not~~  
13 ~~become effective and shall be of no force and effect unless~~  
14 ~~and until approved by a majority of the members of the~~  
15 ~~firefighters pension plan at an election conducted by the~~  
16 ~~Orlando Firefighters Pension Board within 90 days after the~~  
17 ~~effective date of this act.~~

18           (3) Any actuarially determined additional cost  
19 resulting from the benefits in this section shall be borne by  
20 members of the firefighters' pension plan.

21           Section 5. A new section 21 is added to chapter 23444,  
22 Laws of Florida, as amended, to read:

23           Section 21. (1) DEFERRED RETIREMENT OPTION PLAN.--The  
24 Deferred Retirement Option Plan, hereinafter referred to as  
25 the DROP, allows any member who has elected to participate in  
26 the DROP, hereinafter referred to as a DROP participant, to  
27 receive a lump-sum payment, or other payment, in addition to a  
28 monthly pension, upon termination of employment. No benefits  
29 shall be paid under this section unless the DROP participant  
30 has terminated employment.

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1           (2) DROP ELIGIBILITY.--Any member may elect to  
2 participate in the DROP following the date upon which the  
3 member first becomes eligible for a monthly pension as  
4 provided for in section 12, hereinafter referred to in this  
5 section as a "service retirement pension." A member may  
6 participate in the DROP only once.

7           (3) DROP PARTICIPATION.--

8           (a) An eligible member may participate in the DROP for  
9 a period not to exceed a maximum of 36 months.

10 Notwithstanding, DROP participation may not continue beyond  
11 the date when the member's combined years of credited service  
12 and time in the DROP equals 360 months, except for those  
13 member's entering the DROP in the window period set forth in  
14 subsection (13).

15           (b) A member may apply to participate in the DROP by  
16 submitting an application to the board of trustees, which  
17 shall include the following:

18           1. A written election to participate in the DROP.

19           2. Selection of the DROP participation and termination  
20 dates, that satisfy the limitation stated in subsection (2)  
21 and paragraph (a). Such termination date shall be in a binding  
22 letter of resignation with the city, establishing a deferred  
23 termination date.

24           3. A properly completed DROP application for a service  
25 retirement pension.

26           4. A properly completed designation of named  
27 beneficiaries in the event the member dies while participating  
28 in the DROP.

29           5. Any other information as may be required by the  
30 board of trustees.

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1       (c) A DROP participant may increase or decrease the  
2 original DROP participation period subject to the maximum  
3 limitation stated in paragraph (a). A 30-day written notice to  
4 the board of trustees is required for this election.

5       (d) The DROP participant shall be a retiree under the  
6 provisions of the pension plan. However, participation in the  
7 DROP does not alter the DROP participant's employment status  
8 and such DROP participant shall not terminate employment until  
9 the DROP participant's deferred resignation is effective and  
10 separation from employment occurs.

11       (e) A DROP participant shall not accrue additional  
12 credited service under the pension plan after the effective  
13 date of DROP participation, except as provided for in  
14 paragraph (10)(d) and subsection (12).

15       (4) BENEFITS PAYABLE UNDER THE DROP.--

16       (a) Effective with the date of DROP participation, the  
17 DROP participant's initial monthly service retirement pension,  
18 including credited service and average monthly salary, shall  
19 be determined and fixed. Such service retirement pension,  
20 together with annual cost-of-living adjustments thereto, and  
21 earnings shall be credited to the DROP participant's DROP  
22 account no less than monthly. Such earnings shall be credited  
23 as provided in subsection (7).

24       (b) The effective date of DROP participation for a  
25 participant who has elected to receive benefits under the  
26 pension plan shall be the first day of the month selected by  
27 the member to begin retirement under the pension plan and  
28 participation in the DROP.

29       (c) The service retirement pension and earnings  
30 thereon shall be credited to the DROP participant's DROP  
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1 account periodically, as pension benefit payments would have  
2 otherwise been made.

3 (5) DROP TYPES.--A member eligible for a service  
4 retirement pension may elect a Forward DROP, a Back DROP, or a  
5 Combined DROP.

6 (a) Forward DROP.--Under a Forward DROP a member may  
7 retire, deferring receipt of the service retirement pension  
8 while continuing employment with the city. In that case, the  
9 deferred monthly service retirement pension shall be credited  
10 to the DROP participant's DROP account on behalf of the DROP  
11 participant, as provided in subsection (4), for the specified  
12 period of the DROP participation, as provided in subsection  
13 (3). Upon termination of employment, the DROP participant  
14 shall receive the balance of his DROP account and begin to  
15 receive the monthly service retirement pension.

16 1. A DROP participant remains an employee and receives  
17 all the benefits of being an employee during the DROP  
18 participation period. A DROP participant shall be subject to  
19 termination of employment during the DROP participation period  
20 to the same extent as he was prior to participating in the  
21 DROP.

22 2. Effective with the start date of a DROP  
23 participant's Forward DROP participation, a member's  
24 contribution and the normal cost contribution to the pension  
25 fund by the city, on behalf of the member, shall cease.

26 (b) Back DROP.--Under a Back DROP a member may retire  
27 with a retroactive date of retirement. A member may not  
28 select a retroactive retirement date earlier than the date  
29 upon which the member first became eligible for a service  
30 retirement pension, and in no event shall the retroactive date  
31 of retirement be more than 36 months prior to the date of Back



1 DROP election. The monthly service retirement pension shall  
2 be determined as of the retroactive retirement date. The  
3 member shall then be credited with an account balance in his  
4 DROP account that is equal to the account balance he would  
5 have had if he had timely elected a Forward DROP under  
6 paragraph (a) on the retroactive retirement date. Upon  
7 termination of employment the DROP participant shall receive  
8 the balance of his DROP account and shall begin to receive the  
9 monthly service retirement pension adjusted to reflect the  
10 retroactive retirement date.

11 (c) Combined DROP.--Under a Combined DROP a member may  
12 elect a Back DROP for a period of less than 36 months and a  
13 consecutive Forward DROP period, provided the sum of the Back  
14 DROP and Forward DROP periods does not exceed 36 months. The  
15 Back DROP portion of the Combined DROP shall be calculated as  
16 set forth in paragraph (b), and the Forward DROP portion shall  
17 be calculated as set forth in paragraph (a). Upon termination  
18 of employment, the DROP participant shall receive the balance  
19 of his DROP account and shall begin to receive the monthly  
20 service retirement pension adjusted to reflect the retroactive  
21 retirement date.

22 (6) DROP ACCOUNTS.--

23 (a) Individual DROP accounts shall be established to  
24 account for each DROP participant's accrued DROP benefits, but  
25 there shall be no segregation of funds for any DROP  
26 participant. The accounting shall record the credited monthly  
27 service retirement pension, as determined in subsection (5),  
28 including cost-of-living increases, as provided for in section  
29 19(2). In the case of a Back DROP, the amount of a member's  
30 contributions made during the Back DROP period shall be  
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1 credited to the DROP participant's DROP account. The DROP  
2 account shall be adjusted as provided in subsection (7).

3 (b) Upon request, the board of trustees shall provide  
4 to any member information showing the full value of any  
5 anticipated DROP benefits, as well as how same would be  
6 calculated, in the event such DROP is elected.

7 (7) DROP BENEFITS EARNINGS AND REPORTING.--

8 (a) A DROP participant's DROP account shall accrue  
9 earnings at the actual rate of investment return realized by  
10 the pension fund and with the same frequency.

11 (b) A DROP account shall be adjusted to reflect  
12 earnings until such time as the DROP account is distributed in  
13 full to the DROP participant or his beneficiaries.

14 (c) The board of trustees shall report to each DROP  
15 participant at least annually, or upon request of the DROP  
16 participant, accrued DROP benefits in his DROP account; the  
17 report shall also reflect investment performance,  
18 contributions, and any other items that materially affected  
19 the DROP benefit.

20 (8) COST-OF-LIVING ADJUSTMENT.--A DROP participant's  
21 monthly service retirement pension shall be increased as  
22 provided for in section 19(2).

23 (9) BENEFITS PAYABLE UPON TERMINATION OF DROP.--Upon  
24 the DROP participant's termination of employment, for any  
25 reason, whether by resignation, discharge, disability, or  
26 death, the monthly service retirement pension and the balance  
27 of the DROP account shall be paid to the DROP participant, or  
28 if deceased, the DROP participant's beneficiaries, as provided  
29 herein.

30 (10) PAYMENT CONDITIONS AND OPTIONS.--Upon the DROP  
31 participant's termination of employment, for any reason,

1 whether by resignation, discharge, disability, or death, the  
2 board of trustees shall distribute the balance of DROP  
3 participant's DROP account, subject to the following  
4 provisions:

5 (a) The board of trustees shall receive verification  
6 from the city that such DROP participant has terminated  
7 employment.

8 (b) Following the termination of employment, the DROP  
9 participant, or if deceased, such DROP participant's  
10 beneficiaries, shall elect on forms provided by the board of  
11 trustees to receive payment of the balance of the DROP account  
12 in accordance with one of the options listed below. For a  
13 DROP participant or beneficiaries who fail to elect a method  
14 of payment within 60 days of termination of the DROP, the  
15 board of trustees shall pay the balance of the DROP account in  
16 one lump sum as provided in subparagraph 1.

17 1. Lump sum.--The balance of the DROP account, less  
18 taxes remitted to the Internal Revenue Service, if any, shall  
19 be paid to the DROP participant or beneficiaries.

20 2. Direct rollover.--The balance of the DROP account  
21 shall be paid directly to the custodian of an eligible  
22 retirement plan as defined in s. 402(c)(8)(B) of the Internal  
23 Revenue Code. However, in the case of an eligible rollover  
24 distribution to the widow or widower as a beneficiary, an  
25 eligible retirement plan is an individual retirement account  
26 or an individual retirement annuity as described in s.  
27 402(c)(9) of the Internal Revenue Code.

28 3. Partial lump sum.--A portion of the balance of the  
29 DROP account shall be paid to the DROP participant or  
30 beneficiaries, less taxes remitted to the Internal Revenue  
31 Service, if any, and the remaining balance of the DROP account

1 shall be transferred directly to the custodian of an eligible  
2 retirement plan as defined in s. 402(c)(8)(B) of the Internal  
3 Revenue Code. However, in the case of an eligible rollover  
4 distribution to the widow or widower as a beneficiary, an  
5 eligible retirement plan is an individual retirement account  
6 or an individual retirement annuity as described in s.  
7 402(c)(9) of the Internal Revenue Code. The proportions shall  
8 be specified by the DROP participant or beneficiaries.

9 4. Other methods.--The balance of the DROP account  
10 shall be paid by a method that is in compliance with the  
11 Internal Revenue Code and as adopted by the board of trustees.

12 (c) The form of payment selected by the DROP  
13 participant or beneficiaries complies with the minimum  
14 distribution requirements of the Internal Revenue Code.

15 (d) A DROP participant who fails to terminate  
16 employment shall be deemed not to be retired and the DROP  
17 election shall be null and void. Pension plan membership shall  
18 be reestablished retroactively to the date of the commencement  
19 of the DROP. As provided for in subparagraph (5)(a)2., city  
20 and member contributions shall cease during a Forward DROP  
21 participation period, the city and the member shall pay into  
22 the pension fund those contributions that would have been  
23 required during the period the member participated in a  
24 Forward DROP or the Forward DROP portion of a Combined DROP,  
25 plus the actual rate of investment return realized by the  
26 pension fund during said period; such payment by the member  
27 shall be a condition for the subsequent receipt of any benefit  
28 under the pension plan. Such DROP participant shall be  
29 prohibited from again electing participation in the DROP, as  
30 provided for in subsection (2).

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1       (11) RETIREE HEALTH INSURANCE SUBSIDY.--A DROP  
2 participant is not eligible to apply for the retiree health  
3 insurance subsidy payment until such participant has  
4 terminated employment and participation in the DROP.

5       (12) DISABILITY.--In the event a DROP participant  
6 shall become permanently and totally disabled during the DROP  
7 participation period, said DROP participant may apply for a  
8 disability pension as provided for in section 7 or section 9,  
9 as applicable. In the event a disability pension is granted,  
10 the DROP participant's election shall be null and void.  
11 Pension plan membership shall be reestablished retroactively  
12 to the date of the commencement of the DROP. As provided for  
13 in subparagraph (5)(a)2., city and member contributions shall  
14 cease during a Forward DROP participation period, the city and  
15 the member shall pay into the pension fund those contributions  
16 that would have been required during the period the member  
17 participated in a Forward DROP or the Forward DROP portion of  
18 a Combined DROP, plus the actual rate of investment return  
19 realized by the pension fund during said period; such payment  
20 by the member shall be a condition for receiving the  
21 disability pension. Such DROP participant shall be prohibited  
22 from again electing participation in the DROP, as provided for  
23 in subsection (2).

24       (13) ELIGIBILITY EXCEPTIONS.--

25       (a) A one-time window period shall occur for 60 days  
26 from the effective date of the DROP as provided in subsection  
27 (17).

28       (b) During the window period and subject to the other  
29 eligibility conditions expressed herein, a member with more  
30 than 324 months of credited service may elect to enter the  
31 DROP and not be subject to the combined years of credited

1 service and DROP participation limitation of 360 months. Said  
2 member is subject to the maximum DROP participation period of  
3 36 months.

4 (c) A member with more than 324 months of credited  
5 service as of the effective date of DROP who does not elect to  
6 participate in the DROP, as set forth above, during this  
7 one-time window period shall forfeit the right to deviate from  
8 the conditions for participation in the DROP set forth in  
9 subsection (3).

10 (14) DEATH OF A DROP PARTICIPANT.--

11 (a) Upon the death of a DROP participant, the named  
12 DROP beneficiaries shall be entitled to apply for and receive  
13 the balance of the DROP participant's DROP account as provided  
14 in subsections (9) and (10). DROP payments to a beneficiary  
15 shall be in addition to any other retirement benefits payable  
16 to the beneficiary.

17 (b) The monthly service retirement pension accrued to  
18 the DROP account during the month of the DROP participant's  
19 death shall be the final monthly service retirement pension  
20 benefit credited for such DROP participant.

21 (c) Eligibility to participate in the DROP terminates  
22 upon death of the DROP participant. If the DROP participant  
23 dies on or after the effective date of enrollment in the DROP,  
24 but prior to the first monthly service retirement pension  
25 benefit being credited to the DROP, pension plan benefits  
26 shall be paid in accordance with applicable provisions of this  
27 pension plan.

28 (d) A DROP participant's beneficiaries shall not be  
29 eligible to receive survivor benefits as provided in sections  
30 8 and 10.

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1       (15) A DROP participant shall not be deemed to have  
2 been reemployed after retirement as that term is used  
3 elsewhere in the plan.

4       (16) Any actuarially determined additional cost  
5 resulting from the benefits in this section shall be borne by  
6 the members of the pension plan. Further, the members of the  
7 pension plan will pay annually any actuarially determined  
8 ancillary costs resulting from the benefits in this section.

9       (17) This section shall take effect contingent upon  
10 the city or the board of trustees receiving a favorable  
11 determination letter and a favorable private letter ruling,  
12 hereinafter referred to as favorable letters, from the  
13 Internal Revenue Service. The city or the board of trustees  
14 shall request from the Internal Revenue Service, within 90  
15 days of the passage of this act:

16       (a) A written determination letter stating that the  
17 pension plan, as amended to include the DROP, continues to be  
18 a qualified pension plan; and

19       (b) A private letter ruling stating:

20       1. That the pension plan, as amended to include the  
21 DROP, is not a "defined contribution plan" as defined in ss.  
22 414(i) and 415(k)(1) of the Internal Revenue Code, is not  
23 subject to the separate limitations contained within s. 415(c)  
24 and (e) of the Internal Revenue Code, and is not a "hybrid  
25 plan" as defined in s. 414(k) of the Internal Revenue Code;

26       2. That the pension plan, as amended to include the  
27 DROP, is not a "cash or deferred arrangement" within the  
28 meaning of s. 401(k) of the Internal Revenue Code; and

29       3. That the monthly retirement benefits paid into the  
30 DROP are not deemed to be constructive receipt of income under  
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1 s. 402(a) of the Internal Revenue Code and shall not be  
2 taxable until actual distribution to the retiree.

3 (c) In the event favorable letters are not received,  
4 this section shall not take effect.

5 Section 6. Section 22 of chapter 23444, Laws of  
6 Florida, 1945, as amended, is amended to read:

7 Section 22. Any benefits paid under the provisions of  
8 this act for any child shall, except as provided in section  
9 2(1), cease when and if such child dies or is, or becomes self  
10 supporting, marries or reaches the age of 18 ~~eighteen (18)~~  
11 years.

12 Section 7. A new section 24 is added to chapter 23444,  
13 Laws of Florida, 1945, as amended, to read:

14 Section 24. (1) Upon implementation, the city shall,  
15 solely for the purpose of compliance with s. 414(h) of the  
16 Internal Revenue Code, pick up, for the purposes specified in  
17 that section, member contributions required by the act for all  
18 salary earned by the member after implementation. Member  
19 contributions picked up under the provisions of this section  
20 shall be treated as city contributions for purposes of  
21 determining income tax obligations under the Internal Revenue  
22 Code; however, such picked up member contributions shall be  
23 included in the determination of the member's gross annual  
24 salary for all other purposes under federal and state laws.

25 (2) Members' contributions picked up under this  
26 section shall continue to be designated member contributions  
27 for all purposes of the act and shall be considered as part of  
28 the member's salary for purposes of determining the amount of  
29 the member's contributions. The provisions of this section  
30 are mandatory, and the member shall have no option concerning  
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1 the pick up or to receive the contributed amounts directly  
2 instead of having them paid by the city to the pension fund.  
3 (3) Implementation occurs upon authorization by the  
4 board of trustees following receipt of a favorable letter of  
5 determination as to the qualified plan status of the fund. In  
6 no event may implementation occur other than at the beginning  
7 of a pay period.

8 Section 8. This act shall take effect upon becoming a  
9 law.

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