

By Senators Hargrett, Lee, Grant and Sebesta

21-904A-00

See HB

1 A bill to be entitled
2 An act relating to the City of Tampa,
3 Hillsborough County; amending s. 4 of chapter
4 23559, Laws of Florida, 1945, as amended;
5 revising the definitions of "salaries or wages"
6 and "military service time" and adding the
7 definitions of "actuarial equivalent," "plan
8 year," and "legal heirs"; amending s. 17 of
9 chapter 23559, Laws of Florida, 1945, as
10 amended; providing for 8-year vesting and
11 eligibility in the Deferred Retirement Option
12 Program for elective officers; creating ss. 23,
13 24, 25, and 26 of chapter 23559, Laws of
14 Florida, 1945, as amended; providing for the
15 sole purpose of the General Employees'
16 Retirement Plan, limitations on amounts of
17 benefits, required distributions, and direct
18 rollovers; repealing all laws in conflict
19 herewith; providing an effective date and
20 providing for retroactive operation of certain
21 provisions.

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23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Subsections (A) and (H) of section 4 of
26 chapter 23559, Laws of Florida, 1945, as amended, are amended,
27 and new subsections (P), (Q), and (R) are added, to read:

28 Section 4. Definitions.

29 (A) Salaries or Wages. Salaries or wages for the
30 purpose of this act shall be the base amounts earned by the
31 Employee, plus ~~employee including~~ regular longevity bonuses,

1 overtime and shift premiums, but exclusive of other premiums,
2 allowances or special payments or any casual nonrecurring or
3 unpredictable bonuses. In addition to other applicable
4 limitations set forth in the Plan, and notwithstanding any
5 other provision of the Plan to the contrary, for Plan Years
6 beginning on or after January 1, 1996, the annual Salaries or
7 Wages of each Employee taken into account under the Plan shall
8 not exceed the annual compensation limit provided for in the
9 Omnibus Budget Reconciliation Act of 1993 (the "OBRA 1993
10 Annual Compensation Limit"). The OBRA 1993 Annual
11 Compensation Limit is \$150,000, as adjusted by the
12 Commissioner of the Internal Revenue Service for increases in
13 the cost-of-living in accordance with Section 401(a)(17)(B) of
14 the Internal Revenue Code of 1986, as amended (the "Code").
15 The cost-of-living adjustment in effect for a calendar year
16 applies to any period, not exceeding 12 months, over which
17 Salaries or Wages are determined (determination period)
18 beginning in such calendar year. If a determination period
19 consists of fewer than 12 months, the OBRA 1993 Annual
20 Compensation Limit will be multiplied by a fraction, the
21 numerator of which is the number of months in the
22 determination period, and the denominator of which is 12. For
23 Plan Years beginning on or after January 1, 1996, any
24 reference in this Plan to the limitation under Section
25 401(a)(17) of the Code shall mean the OBRA 1993 Annual
26 Compensation Limit set forth in this provision. The
27 limitation on Salaries or Wages for an "eligible Employee"
28 shall not be less than the amount which was allowed to be
29 taken into account hereunder as in effect on July 1, 1993.
30 "Eligible Employee" is an individual who was a participant in
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1 the Plan before the first Plan Year beginning after December
2 31, 1995.

3 (H) Military Service Time. In computing Service
4 allowance for retirement, creditable Service shall, at the
5 option of the Employee, include any service which interrupted
6 employment ~~employment~~ with the Employer, not to exceed a
7 period of 3 years, in any of the armed services of the United
8 States during time of war, upon condition that within 90 days
9 from the date of reinstatement of such Employee now or
10 hereafter serving in the armed forces, or within 90 days from
11 the effective date of this act for those Employees already
12 reinstated, such Employee shall exercise such option by filing
13 written notice thereof with the Board of Trustees and, if a
14 Division A employee, shall within the 12 ensuing months pay
15 into the retirement fund an amount equal to the aggregate
16 contributions such Employee would have made had such Employee
17 not served in the armed forces, based upon the Salary or Wages
18 being earned at the time of entering the armed services, and
19 if any such Employee shall fail to exercise such option within
20 the time and in the manner hereinabove prescribed, such period
21 of military service shall not thereafter be allowed as
22 creditable Service, but shall not be deemed a break in such
23 Employee's Continuous Service eligibility period.

24 Notwithstanding the foregoing, an Employee shall be credited
25 with service for purposes of vesting and benefit accrual under
26 the Plan for his or her service in the uniformed service (as
27 defined in the Uniformed Services Employment and Reemployment
28 Rights Act of 1994 (the "USERR Act") upon being granted leave
29 by the Employer for such uniformed service and termination
30 from employment as an Employee with the Employer, provided
31 that the Employee must return to his or her employment as an

1 Employee with the Employer within the time periods prescribed
2 by the USERR Act; and the Employee complies with the Employee
3 contribution requirements prescribed by the USERR Act. The
4 maximum service credit for uniformed service shall be 5 years
5 or such other time period as may be prescribed by the USERR
6 Act.

7 (P) Actuarial Equivalent. The Actuarial Equivalent of
8 an Employee's Accrued Pension shall be determined by basing
9 mortality on the 1983 Group Annuity Mortality Table for Males
10 with female ages set back 6 years and post-disablement
11 mortality upon 80 percent of the 1965 Railroad Board Ultimate
12 Mortality Table, or such other mortality tables as are in
13 compliance with the Code.

14 (Q) Plan Year. Plan Year shall mean the period
15 commencing on the first day of October of each year and ending
16 on the last day of September of the following year.

17 (R) Legal Heirs. An Employee's Legal Heirs shall mean
18 an Employee's designated beneficiary, or, in the absence of
19 such a designation or if there is no surviving designated
20 beneficiary, the legal heirs of the Employee as determined by
21 applicable law. For the purposes of this Act, the terms
22 "Legal Heirs" and "Designated Beneficiary" shall have the same
23 meaning and shall be used interchangeably.

24 Section 2. Subsection (A) of section 17 of chapter
25 23559, Laws of Florida, 1945, as amended, is amended to read:

26 Section 17. Officers.

27 (A) Elective officers, department heads and appointive
28 officers of the City shall participate in the pension or
29 retirement Plan plan. Such officers, department heads and
30 appointive officers shall have the same status for pension
31 purposes as permanent Employees employees; provided, however,

1 the minimum number of years necessary for an elective officer
2 of the City to have a vested pension under the Plan and be
3 eligible for the Deferred Retirement Option Program set forth
4 in section 22 of this Plan shall be 8 continuous years of
5 Service; and provided further that any elective officer,
6 department head, or appointive officer of the City ~~any such~~
7 ~~person~~ who (1) shall have participated in the pension or
8 retirement Plan ~~plan~~ and acquired a vested right to a deferred
9 proportionate pension thereunder, (2) shall have at the end of
10 any term in office (a) unsuccessfully sought election, (b) not
11 been appointed, or (c) not declined appointment to any office
12 of the City, (3) shall have left his contributions in the Fund
13 if he was a member of Division A and had contributed to the
14 Fund, and (4) is or shall have been subsequently elected or
15 appointed to any office or employed in any position in the
16 City, shall resume his participation in the plan; and the
17 period during which such person shall have been out of office
18 shall not constitute a break in Service ~~service~~, but no
19 creditable Service ~~service~~ shall be allowed for such period.
20 Pensions under this section shall be calculated in the same
21 manner as any pensions of Employees ~~employees~~ receiving
22 retirement benefits who were subsequently reemployed (section
23 16).

24 Section 3. Sections 23, 24, 25, and 26 are added to
25 chapter 23559, Laws of Florida, 1945, as amended, to read:

26 Section 23. Sole Purpose. This Plan is created for
27 the sole purpose of providing benefits to the Employees of the
28 City. Except as otherwise permitted by law, in no event shall
29 any part of the principal or income of the Fund be paid to or
30 reinvested in the City or be used for or diverted to any

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1 purpose whatsoever other than for the exclusive benefit of the
2 Employees participating in the Plan and their beneficiaries.

3 Section 24. Limitations On Amounts Of Benefits.

4 (A) Benefits for an Employee under this Plan, when
5 expressed as a benefit payable annually in the form of a
6 straight life annuity without regard to the death benefit or
7 any other ancillary benefit, shall not at any time within the
8 limitation year exceed \$90,000.

9 (B)1. The \$90,000 limitation set forth in subsection
10 (A) shall be actuarially reduced in accordance with
11 regulations prescribed by the Secretary of the Treasury for
12 any retirement benefit that may begin before an Employee
13 attains age 62, by adjusting such benefit so that it is
14 equivalent to such a benefit beginning at age 62. The
15 reduction shall not reduce the \$90,000 limitation set forth in
16 subsection (A) to less than (a) \$75,000 if the benefit begins
17 at or after age 55, or (b) if the benefit begins before age
18 55, the equivalent of the \$75,000 limitation for age 55.

19 2. If any retirement benefit begins after the Employee
20 attains age 65, the \$90,000 limitation set forth in subsection
21 (A) shall be adjusted (based upon an interest rate assumption
22 of 5 percent) in accordance with regulations prescribed by the
23 Secretary of the Treasury, by adjusting such benefit so that
24 it is equivalent to such benefit beginning at age 65.

25 (C) The benefit payable with respect to an Employee
26 shall be deemed not to exceed the limitations set forth in
27 subsections (A) and (B) if the benefit payable with respect to
28 such Employee under this Plan, and under all other defined
29 benefit pension plans to which the City contributes, does not
30 exceed \$10,000 for the applicable Plan Year and for any Plan

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1 Year and the City has not at any time maintained a defined
2 contribution plan in which the Employee participated.

3 (D) In accordance with Section 415(b)(5) of the Code,
4 the \$90,000 limitation in subsection (A), and the limitation
5 in subsection (C), shall be multiplied by a fraction (not in
6 excess of 1), the numerator of which is the number of the
7 Employee's years of Service in the Plan (in the case of the
8 \$90,000 limitation set forth in subsection (A)) or the number
9 of the Employee's years of Service (in the case of the
10 limitation set forth in subsection (C)) and the denominator of
11 which, in either case, is 10.

12 (E) As of January 1 of each calendar year, the \$90,000
13 limitation set forth in subsection (A) shall be adjusted as
14 and if permitted by the Secretary of the Treasury, and any
15 such adjusted limitation shall become effective as the maximum
16 dollar limitation under the Plan for that calendar year. The
17 maximum dollar limitation for a calendar year, as so adjusted,
18 shall apply to limitation years ending with or within such
19 calendar year.

20 (F)1. In the event that any Employee participates in
21 both a defined benefit plan and a defined contribution plan
22 maintained by the City, then the sum of the Defined Benefit
23 Plan Fraction (as defined in Section 415(e) of the Code) and
24 the Defined Contribution Plan Fraction (as defined in Section
25 415(e) of the Code) for any limitation year shall not exceed
26 1.0.

27 2. In the event that the sum of the Defined Benefit
28 Plan Fraction and the Defined Contribution Plan Fraction
29 exceeds 1.0, then the Board of Trustees shall take such
30 actions, applied in a uniform and nondiscriminatory manner, as
31 will keep the benefits and annual additions thereto for such

1 Employees from exceeding these limits. Adjustments shall be
2 made to this Plan before any adjustments shall be required to
3 any other plans.

4 Section 25. Required Distributions.

5 (A) Any benefit paid to an Employee shall commence not
6 later than the last to occur of:

7 1. April 1 of the year following the calendar year in
8 which the Employee retires; or

9 2. April 1 of the year immediately following the
10 calendar year in which the Employee reaches age 70 1/2.

11 (B) In the case of a benefit payable by reason of an
12 Employee's retirement or other termination of employment, in
13 no event shall payment extend beyond the life or life
14 expectancy of the Employee or the joint lives or life
15 expectancies of the Employee and the Employee's designated
16 beneficiary. In the case of an Employee who is receiving his
17 or her pension benefit as of the date of his or her death, the
18 survivor portion of the Employee's pension benefit shall be
19 paid at least as rapidly as under the method being used prior
20 to the Employee's death.

21 (C) Notwithstanding anything contained herein to the
22 contrary, payments under the Plan shall satisfy the incidental
23 death benefit requirements and all other applicable provisions
24 of Section 401(a)(9) of the Code, the regulations issued
25 thereunder (including Section 1.401(a)(9)-2 of the proposed
26 Treasury regulations), and such other rules thereunder as may
27 be prescribed by the Secretary of the Treasury.

28 Section 26. Direct Rollovers.

29 (A) This section applies to distributions made on or
30 after January 1, 1993. Notwithstanding any provision of the
31 Plan to the contrary that would otherwise limit a

1 distributee's (as defined below) election under this section,
2 a distributee may elect, at the time and in the manner
3 prescribed by the Commissioner of the Internal Revenue
4 Service, to have any portion of an eligible rollover
5 distribution (as defined below) paid directly to an eligible
6 retirement plan (as defined below) specified by the
7 distributee in a direct rollover (as defined below).

8 (B) For purposes of this section, the following terms
9 shall have the following meanings:

10 1. An "eligible rollover distribution" is any
11 distribution of all or any portion of the balance to the
12 credit of the distributee, except that an eligible rollover
13 distribution does not include: any distribution that is one of
14 a series of substantially equal periodic payments (not less
15 frequently than annually) made for the life (or life
16 expectancy) of the distributee or the joint lives (or joint
17 life expectancies) of the distributee and the distributee's
18 designated beneficiary, or for a specified period of 10 years
19 or more; any distribution to the extent such distribution is
20 required under Section 401(a)(9) of the Code, and the portion
21 of any distribution that is not includable in gross income
22 (determined without regard to the exclusion for net unrealized
23 appreciation with respect to employer securities).

24 2. An "eligible retirement plan" is an individual
25 retirement account described in Section 408(a) of the Code, an
26 individual retirement annuity described in Section 408(b) of
27 the Code, an annuity plan described in Section 403(a) of the
28 Code, or a qualified trust described in Section 401(a) of the
29 Code that accepts the distributee's eligible rollover
30 distribution. However, in the case of an eligible rollover
31 distribution to the surviving spouse, an eligible retirement

1 plan is an individual retirement account or individual
2 retirement annuity.
3 3. A "distributee" includes an Employee or former
4 employee. In addition, the Employee's or former employee's
5 surviving spouse and the Employee's or former employee's
6 spouse or former spouse who is the alternate payee under a
7 qualified domestic relations order, as defined in Section
8 414(p) of the Code, are distributees with regard to the
9 interest of the spouse or former spouse.
10 4. A "direct rollover" is a payment by the Plan to the
11 eligible retirement plan specified by the distributee.
12 Section 4. All laws or parts of laws in conflict
13 herewith are hereby repealed to the extent of such conflict.
14 Section 5. This act shall take effect upon becoming a
15 law and sections 1 and 3 shall operate retroactively to
16 January 1, 1997.
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