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An act relating to the City of Tampa, Hillsborough County, and particularly to the City Pension Fund for Firefighters and Police Officers in the City of Tampa; authorizing the City of Tampa to enter into a supplemental contract with certain firefighters and police officers to provide for an employer pick-up provision so that employee pension contributions can be made on a pre-tax basis; providing for additional authorized investments; restructuring the 13th Check Program; providing an effective date.

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

Section 1. The City of Tampa is authorized and empowered to enter into a supplemental contract with each and every firefighter or police officer who was an active or contributing member of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on or after the date this act becomes a law, or who may hereafter enter into a pension contract with the City, amending Section 2(D), Section 6(3), and Section 27 of the City of Tampa Firefighters and Police Officers Pension Contract as prescribed by Section 28-17 of the City of Tampa Code {Ordinance No. 4746-A, enacted September 30, 1969}, as amended by section 28-19 of the City of Tampa Code {Ordinance No. 6038-A, enacted September 17, 1974} pursuant to chapter 74-613, Laws of Florida, as further amended by chapter 92-231, Laws of Florida, chapter 94-463,

1 Laws of Florida, chapter 98-515, Laws of Florida, and chapter
 2 2000-485, Laws of Florida, to read:

3 Section 2(D) Except as provided by subparagraph
 4 2(B)(4) and subparagraph 27(B)(2), the employees covered under
 5 this contract shall contribute at the rates set forth below,
 6 based upon all of their earnings during each twelve month
 7 period commencing on October 1, which contributions shall be
 8 deducted from said earnings before the same are paid and shall
 9 be promptly deposited in the Fund:

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Earnings in Twelve-Month Period <u>Commencing October 1</u>	Employee Contribution <u>Rate</u>
First \$4,000	6%
Next 1,000	7%
Next 1,000	8%
Next 1,000	9%
Next 1,000	10%
Next 1,000	11%
Next 1,000	12%
Next 2,500	15%
Excess over \$12,500	25%

If the City's rate of contribution, pursuant to Section 2(B),
 should exceed forty per centum (40%), the employee
 contribution scale above shall be increased in the ratio of
 the City's contribution rate, pursuant to Section 2(B), to 40
 percent.

1 Commencing for earnings paid the first pay date after
2 January 1, 2002, all mandatory employee contributions to the
3 Fund shall be picked-up and paid by the City. Such
4 contributions, although designated as employee contributions,
5 will be paid by the City in lieu of contributions by the
6 employee. The contributions so assumed shall be treated as
7 tax-deferred employer "pick-up" contributions pursuant to
8 Section 414(h) of the Internal Revenue Code. Members shall
9 not have the option of receiving the contributed amounts
10 directly instead of having such contributions paid by the City
11 to the Fund.

12 Section 6(3) That the portfolio, representing the
13 principal or surplus funds of the Pension Fund may be invested
14 in the following securities or other property, real or
15 personal, including, but without being limited to, bonds,
16 notes, or other evidences of indebtedness issued, or assumed
17 or guaranteed in whole or in part by the United States or any
18 of its agencies or instrumentalities; or by ~~the Dominion of~~
19 ~~Canada or any of its provinces, cities or municipal~~
20 ~~corporations;~~any foreign government or political subdivisions
21 or agencies thereof; or by the State of Florida, or by any
22 county, city, school district, municipal corporation, or other
23 political subdivision of the State of Florida, both general
24 and revenue obligations; in mortgages and other interests in
25 realty; or in such corporation bonds, notes, or other
26 evidences of indebtedness, and corporation stocks including
27 common and preferred stocks, of any corporation created or
28 existing under the laws of the United States or any of the
29 states of the United States, or ~~of the Dominion of Canada,~~of
30 any foreign government or political subdivisions or agencies
31 thereof, provided that in making each and all of such

1 investments the Board of Trustees shall exercise the judgment
2 and care under the circumstances then prevailing which men of
3 ordinary prudence, discretion, and intelligence exercise in
4 the management of their own funds, not in regard to
5 speculation but in regard to the permanent disposition of
6 their own affairs, not in regard to speculation but in regard
7 to the permanent disposition of their funds, considering the
8 probable income therefrom as well as probable safety of their
9 capital; provided, however, that not more than sixty-five per
10 centum (65%) of said fund, based on the total book value of
11 all investments held, shall be invested at any given time in
12 common stocks, and that not more than five per centum (5%) of
13 said fund shall be invested at any given time in the preferred
14 and common, or either, stock of any one corporation and its
15 affiliates and that not more than ten per centum (10%) of said
16 fund, based on the total book value of all investments held,
17 shall be invested at any given time in the bonds, notes or
18 other evidences of indebtedness of any foreign government or
19 political subdivisions or agencies thereof or corporations
20 created or existing under the laws thereof.

21 Section 27. 13TH CHECK PROGRAM.--Notwithstanding any
22 other provisions of this contract, and subject to the
23 provisions of this section, the 13th Check Program is a
24 program which authorizes the Board of Trustees to establish
25 and make a supplemental pension distribution ~~commencing in~~
26 ~~January 1999, and in January of each year thereafter,~~ pursuant
27 to the following terms and conditions:

28 (A) Eligibility.--The following persons shall be
29 eligible for the supplemental pension distribution payable no
30 later than June 30, 2002, and each June 30 annually
31 thereafter:~~in January of each year:~~

1 (1) All retired members who have terminated employment
2 as a firefighter or police officer in the fire department or
3 police department, respectively, who, on the October 1
4 immediately preceding the June 30 by ~~January~~ in which
5 distributions are to be made, were eligible to receive pension
6 benefits for at least 1 year. For purposes of this section
7 only, a DROP participant shall be considered a retired member
8 and, during the DROP calculation period, a DROP participant
9 shall be eligible for the 13th check benefit, provided that,
10 on the October 1 immediately preceding the June 30 by ~~January~~
11 ~~in~~ which distributions are to be made, such DROP participant
12 had participated in the DROP for at least 1 year;

13 (2) All qualifying spouses who were eligible to
14 receive pension benefits pursuant to Section 8 or Section 9
15 for at least 1 year on the October 1 immediately preceding the
16 June 30 by ~~January~~ in which distributions are to be made; and

17 (3) All qualifying surviving spouses, who on the
18 October 1 immediately preceding the June 30 by ~~January~~ in
19 which distributions are to be made, were eligible for receipt
20 of Section 8 or Section 9 benefits but who have not received
21 such pension benefits for at least 1 year provided that the
22 deceased member was eligible for receipt of pension benefits
23 on October 1 of the prior year.

24 (B) 13th Check Account.--

25 (1) There is hereby created a 13th check account
26 within the Fund, which shall consist of those employees'
27 contributions set forth in subparagraph 27(B)(2) ~~and the~~
28 ~~City's contributions set forth in subparagraph 27(B)(3) in~~
29 excess of those contributions otherwise required by Section 2
30 for the normal annual cost of benefits, other than benefits
31 arising from post retirement adjustments made pursuant to

1 Section 23 and other than benefits arising from the 13th Check
2 Program, plus any interest earnings thereon up to and
3 including September 30, 2001. Effective for earnings paid on
4 the first pay date after October 1, 2001, employee
5 contributions to the 13th Check Account shall cease, and the
6 13th Check Account shall be funded by investment returns in
7 excess of 10% (limited to 3%) on the base plan liabilities for
8 persons eligible for the 13th check. For purposes of this
9 Section, the "base plan" shall mean those assets of the Fund
10 excluding the Post Retirement Adjustment Account, DROP account
11 assets, and the 13th check account. The amount available for
12 the 13th check shall be calculated as of fiscal year end
13 commencing September 30, 2001 for the fiscal year ending
14 September 30, 2001 for payment no later than June 30, 2002,
15 and each June 30 annually thereafter; provided, however, the
16 calculation of the amount payable no later than June 30, 2002,
17 shall include employee contributions to the 13th check account
18 for earnings paid through the last pay date immediately prior
19 to October 1, 2001. The City shall not be required to make
20 contributions toward the 13th check program.

21 (2) Notwithstanding any other provision of this
22 contract, commencing October 1, 1998, employees covered under
23 this contract shall continue to contribute pursuant to Section
24 2 at the rates required for employees to fund the normal
25 annual cost of benefits, other than benefits arising from post
26 retirement adjustments made pursuant to Section 23 and other
27 than benefits arising from the 13th check program made
28 pursuant to this section, plus an additional 100 percent of
29 9.874 percent of the full scale contribution rate (FSCR) set
30 forth in Section 2(D) to the 13th check program. Employee
31 contributions to the 13th check shall cease effective for

1 earnings paid on the last pay date immediately prior to
2 October 1, 2001.

3 ~~(3) Notwithstanding any other provision of this~~
4 ~~contract, the City shall contribute:~~

5 ~~(a) An amount required to fund the normal annual cost~~
6 ~~of benefits, other than benefits arising from post-retirement~~
7 ~~adjustments made pursuant to Section 23 and other than~~
8 ~~benefits arising from the 13th check program made pursuant to~~
9 ~~this section, plus:~~

10 ~~(b) Commencing October 1, 2001, to the 13th check~~
11 ~~program, 134 percent of 9.874 percent of the full scale~~
12 ~~contribution rate (FSCR) for employees set forth in Section~~
13 ~~2(D); provided, however, if the sum of the City's contribution~~
14 ~~for the normal annual cost of benefits plus the 134 percent of~~
15 ~~9.874 percent of the full scale contribution rate (FSCR) is~~
16 ~~greater than 134 percent of 28.789 percent of the full scale~~
17 ~~contribution rate (FSCR), then the City's contribution to the~~
18 ~~13th check program shall be the positive difference between~~
19 ~~134 percent of 28.789 percent of the full scale contribution~~
20 ~~rate (FSCR) and the amount set forth in subparagraph~~
21 ~~27(B)(3)(a) [134 percent of the normal annual cost of benefits~~
22 ~~of the full scale contribution rate (FSCR) for employees set~~
23 ~~forth in Section 2(D)], but no less than 134 percent of 3~~
24 ~~percent of the full scale contribution rate (FSCR).~~

25 ~~(4) Notwithstanding any other provision of this~~
26 ~~contract, the City's contributions to the 13th check program~~
27 ~~shall not require the City to make additional contributions to~~
28 ~~the 13th check program to reimburse the 13th check account for~~
29 ~~the contributions the City would have otherwise made to the~~
30 ~~13th check program had it contributed thereto for the period~~
31 ~~of October 1, 1998, through September 30, 2001.~~

1 (C) Amount of the 13th Check.--The amount of the 13th
2 check shall be determined as follows:

3 (1)(a) The amount of the 13th check shall be the same
4 for all retired members, regardless of years of service, age,
5 years retired, or monthly installment.

6 (b) All eligible surviving spouses shall be entitled
7 to 50 percent of what the eligible retired member would have
8 received but for death.

9 (c) If a retired member is eligible on October 1 but
10 dies before payment of the 13th check by ~~in~~ the following June
11 30 ~~January~~, the retired member's spouse shall receive the full
12 amount of the payment, and if there is no surviving spouse,
13 the retired member's designated beneficiary or beneficiaries,
14 or if none, the retired member's estate shall receive the
15 payment.

16 (2) The Board of Trustees shall establish by rule
17 adopted no later than May 31, 2002, and each May 31
18 thereafter, ~~December 15, 1998~~, the amount of the 13th check
19 funded pursuant to Section 27(B)(1), subject to the following:

20 (a) The amount of the 13th check, or a method for
21 calculating the amount of the 13th check in a manner that is
22 definitely determinable and in accordance with the
23 requirements of the Internal Revenue Code applicable to a
24 qualified governmental plan; and

25 (b) Certification by the Fund's actuary that the
26 amount of the payment will be funded on a sound actuarial
27 basis as required by Section 14, Article X of the State
28 Constitution.

29 (D) Conflict of Laws.--To the extent that any
30 provision of this section is in conflict with sections
31 112.60-112.67, Florida Statutes, or those provisions of

1 chapters 175 and 185, Florida Statutes, that apply to local
2 law plans established by municipal ordinance or special act,
3 or provisions of Florida Statutes made applicable to pension
4 funds established by special act, or to the extent that any
5 provision of this section would result in the loss of tax
6 exempt status of the Pension Fund, the Board of Trustees is
7 hereby delegated the authority to adopt by rules changes to
8 this section in order to comply with said laws, which shall
9 have the force of law and shall be considered part of this
10 pension contract.

11 (E) Administration of Program.--The Board of Trustees
12 shall make such rules as are necessary for the effective and
13 efficient administration of this section, provided that such
14 rules are not inconsistent with the terms of any collective
15 bargaining agreement entered into by the City and the
16 certified bargaining agents for firefighters and police
17 officers concerning the 13th Check Program. Notwithstanding
18 any other provision of this section to the contrary, any
19 provision of this section shall be construed and administered
20 in such manner that such program will qualify as a qualified
21 governmental pension plan under existing or hereafter enacted
22 provisions of the Internal Revenue Code of the United States,
23 and the Board of Trustees may adopt any rule to accomplish the
24 purpose of this section as is necessary to retain tax
25 qualification, which rules shall have the force of law and
26 shall be considered part of this pension contract.

27 Section 2. This act is only an enabling act, and the
28 execution by the City of Tampa of the aforesaid supplemental
29 contract and entitlement to the pension benefits referred to
30 in this act for all firefighters and police officers,
31 regardless of whether or not in the respective certified

1 bargaining unit for firefighters or police officers, is
2 contingent upon contractual agreement through the collective
3 bargaining process between the City of Tampa and each of the
4 respective certified bargaining agents for firefighters and
5 police officers.

6 Section 3. The City of Tampa Firefighters and Police
7 Officers Pension Contract as prescribed by Section 28-17 of
8 the City of Tampa Code {Ordinance No. 4746-A, enacted
9 September 30, 1969}, as amended by Section 28-19 of the City
10 of Tampa Code {Ordinance No. 6038-A, enacted September 17,
11 1974}, pursuant to chapter 74-613, Laws of Florida; as further
12 amended by Ordinance No. 89-314, enacted December 21, 1989,
13 and approved, ratified, validated, and confirmed by chapter
14 90-391, Laws of Florida; and as further amended by chapter
15 92-231, Laws of Florida, chapter 94-463, Laws of Florida,
16 chapter 98-515, Laws of Florida, and chapter 2000-485, Laws of
17 Florida, is in all other respects approved, ratified,
18 validated, and confirmed.

19 Section 4. The benefits provided for herein by Section
20 1 and the changes to the pension contract provided for herein
21 by Section 1 for active and contributing members on the date
22 this act becomes a law shall be made available in one
23 supplemental pension contract, and a member shall not be
24 permitted to select some of said benefits and reject others of
25 said benefits. Any active or contributing member on the date
26 this act becomes a law who fails to sign said supplemental
27 pension contract before October 1, 2001, shall be forever
28 barred from receiving said benefits and shall not be required
29 to make any contributions required as a result of such
30 benefits. However, any person who becomes a member of the
31 City Pension Fund for Firefighters and Police Officers in the

1 City of Tampa on or after the date this act becomes a law,
2 shall be required as a condition of membership into said
3 pension fund to sign a pension contract which includes the
4 provisions of Section 1, and shall be required to make the
5 contributions required as a result of such benefits.

6 Section 5. Notwithstanding the provisions of Section
7 1, the distribution of the 13th check commencing no later than
8 June 30, 2002, shall be payable within 30 days of receipt of a
9 favorable determination letter from the Internal Revenue
10 Service that the revised 13th check program does not adversely
11 impact the tax qualification of the plan, but no earlier than
12 June 30, 2002.

13 Section 6. If the City of Tampa enters into a
14 supplemental pension contract as provided in Section 1 of this
15 act, each retired firefighter and retired police officer who
16 is living on the date this act becomes a law, and each member
17 who retires or dies after this act becomes a law, but before
18 October 1, 2001, and each qualifying surviving spouse, who is
19 living on the date this act becomes a law, is entitled to
20 receive the same benefits from the 13th check account upon the
21 same basis as if the member's contract had been supplemented
22 in the manner provided by Section 1 of this act before the
23 member's separation from service; provided however said
24 retired firefighter, retired police officer and eligible
25 surviving spouse as a condition of participation in the 13th
26 check program shall be subject to the provisions of Section
27 6(3) and Section 24 of the pension contract.

28 Section 7. This act shall take effect upon becoming a
29 law.

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