

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 961 Tampa Firefighters & Police Pension Fund  
**SPONSOR(S):** Murman  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	<u>8 Y, 0 N</u>	<u>Nelson</u>	<u>Cutchins</u>
2) <u>Local Government &amp; Veterans' Affairs</u>	<u></u>	<u></u>	<u></u>
3) <u>State Administration</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

This bill revises retirement benefits for City of Tampa police officers and firefighters. It authorizes the city to enter into supplemental contracts with these employees to:

- revise the definition of pensionable earnings to include up to 300 hours per year of overtime and any other required payments;
- revise the medical examination requirements for membership;
- provide for an increase in the benefit accrual factor from 2.5 percent to 3.15 percent; and
- provide for a minimum benefit for retirees equal to the federal poverty level.

According to the Economic Impact Statement, the increased retirement benefits provided for by this bill will cost \$3,500,000 for FY 04-05. Anticipated sources of funding include employee and city contributions, and chs. 175 and 185, Florida Statutes, revenue.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### ***State Constitution***

Article X s. 14, of the State 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, F.S.***

Part VII, ch. 112, F. S., the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of art. X, s. 14 of the State Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. The act is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.

Section 112.63, F.S., provides that no unit of local government shall agree to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body, and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change upon the local retirement system, consistent with the actuarial review, and has furnished a copy of such statement to the Division of Retirement, Department of Management Services. Such statement also is required to indicate whether the proposed changes are in compliance with Art. X, s. 14 of the State Constitution and with s. 112.64, F.S., which relates to administration of funds and amortization of unfunded liability.

Section 112.67, F.S., prohibits special laws in conflict with the requirements of the act, pursuant to art. III, s. 11(a)(21) of the State Constitution<sup>1</sup>.

##### ***Chapters 175 and 185, F.S.***

Chapters 175 and 185, F. S., respectively, provide the statutory authority for municipal and special fire control district firefighter pensions, and municipal police pensions. These acts were established by the

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<sup>1</sup> This provision in the constitution provides there shall be no special law pertaining to any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote.

Legislature to provide a “uniform retirement system” providing defined benefit plans for firefighters and police officers, and setting standards for operation and funding of these systems. Retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the retirement trust funds.

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive—access to premium tax revenues—to Florida cities to encourage them to establish retirement plans for firefighters. Fourteen years later, in 1953, the Legislature enacted ch. 185, F.S., which set up a similar funding mechanism for municipal police officers. Special fire control districts became eligible to participate under ch. 175 in 1993.

Pension plan funding comes from four sources: net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the “premium tax”); employee contributions; other revenue sources; and mandatory payments by the city of any extra amount needed to keep the plan solvent. To qualify for premium tax dollars, plans must meet requirements found in chs. 175 and 185, F.S. Responsibility for overseeing and monitoring these plans is assigned to the Division of Retirement of the Department of Management Services (DMS), but day-to-day operational control rests with local boards of trustees. Most Florida firefighters and municipal law enforcement officers participate in these plans.

### ***City of Tampa Firefighters and Police Pension Fund***

The Firefighters and Police Pension Fund for the City of Tampa was enacted through special act in 1933 (ch. 16721, L.O.F.) Since that time, the act has been amended 24 times, through chs. 21590 (1941), 22475 (1943), 23560 (1945), 23572 (1945), 23573 (1945), 23574 (1945), 23575 (1945), 23576 (1945), 23577 (1945), 23578 (1945), 24919 (1947), 24945 (1947), 24920 (1947), 26267 (1949), 26266 (1951), 27930 (1951), 74-613, 90-391, 91-379, 92-231, 98-515, and 2000-485, 2001-288 and 2002-369, L.O.F.

Currently, the salary definition for the fund includes base salary and longevity payments, and excludes any casual, nonrecurring or unpredictable overtime, bonuses or other special payments. The plan provides for a minimum pension benefit of \$100 per month, and a benefit accrual factor of 2.5 percent. In order to enter the plan, employees must pass a medical exam consisting of any electrocardiogram and exercise stress test, e-ray of the entire spine, and two x-rays anterior posterior and lateral view of the lumbar spines. Some retired members and or their beneficiaries receive less than the 2003 poverty level benefit.

The City of Tampa and two unions representing police officers and firefighters negotiated and agreed to proposed changes to their respective collective bargaining agreements in the latter part of 2003. The Tampa City Council passed a series of three resolutions on December 4, 2003, approving, ratifying and confirming the agreements.<sup>2</sup> According to the plan administrator, a “Benefit Improvements Actuarial Impact Statement” issued on February 9, 2004, from an enrolled actuary to the administrator serves as the statement of actuarial impact required by s. 112.63, F.S.<sup>3</sup>

### **HB 961**

This bill revises provisions relating to retirement benefits for the City of Tampa Police Officers and Firefighters Pension Fund. It provides enhanced benefits for all actively employed police officers and firefighters with regard to the calculation of retirement benefits based on a new salary definition and an

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<sup>2</sup> Resolution No. 2003-1436 (regarding an agreement between the City and the West Central Police Benevolent Association), Resolution No. 2003-1437 (regarding a second agreement between the City and the West Central Police Benevolent Association) and Resolution No. 2003-1438 (regarding the agreement between the City and the International Association of Firefighters, Local 754).

<sup>3</sup> Jennifer Campbell, Plan Administrator, City of Tampa Police Officers and Firefighters Pension Fund.

increased benefit accrual factor. Benefit accrual enhancements are also provided for police officers and firefighters who are members of the Deferred Retirement Option Program (DROP).

It authorizes the city to enter into supplemental contracts with employees to: expand the definition of pensionable earnings to include up to 300 hours per year of overtime and any other payments required to be included under chs. 175 and 185, F.S.; revise the medical examination requirements for membership; provide for an increase in the accrual of benefits from 2.5 percent to 3.15 percent; and provide for a minimum benefit for retirees equal to the federal poverty level.

The act provides that it is contingent upon execution of a contract between the city and the bargaining agents for the firefighters and police officers, and provides for the execution of certain supplemental contract provisions by a date certain or forever bars the receipt of the benefits provided therein.

#### C. SECTION DIRECTORY:

Section 1: Authorizes the City of Tampa to enter into supplemental contracts with the police officers and firefighters.

Amends Section 3 (E), the definition of "earnings," to mean the total cash remuneration paid by the city to a member for services rendered, including any payments required to be included within the definition of compensation pursuant to chs. 175 and 185, including up to 300 hours of overtime, but not including any payments for extra duty. The new salary definition is effective October 1, 2004.

Amends Section 4 (3) to clarify that a member must pass a complete medical exam including, but not limited to, echo-cardiogram, functional examination of the back and neck, and any other specific diagnostic tests as determined by the Medical Board based upon the individual's risk factors, medical history and physical examination.

Amends Section 7 (A) and (B) to increase the benefit accrual factor from 2.5 percent to 3.15 percent, and amends deletes the minimum benefit provision of \$100 per month. Specifies such benefit enhancement is applicable to any member who was actively employed as a member in the City of Tampa on or after October 1, 2003, or a member of the fund on or after October 1, 2003.

Amends Section 7 (J), effective October 1, 2004, to provide that the minimum monthly pension for any retired member or eligible surviving spouse shall be 100 percent of the amount of the poverty level for an individual member or a member with a family of two, as the case may be, as established annually by the Federal Bureau of Labor and Statistics and published in the Federal Register.

Section 2: Provides that the act is only enabling, and that its effectiveness is contingent upon contractual agreement between the City of Tampa and the respective certified bargaining agents.

Section 3. Provides that the benefits provided for in this act and the changes to the pension contract provided for in this act for members that are actively employed on or after October 1, 2003, and active and contributing members of the plan on the date this act becomes law and any other changes provided for in any other special acts adopted by the Legislature in 2000, 2001, 2002 or 2003 will be made available in one or more supplemental contract(s), and an individual will not be permitted to select some and reject other benefits or changes. Any member who fails to sign such supplemental contract(s) is forever barred from receiving said benefits. All new hires will automatically be eligible for the improved benefits and will be required to sign a pension contract that includes the provisions of this act.

Section 4: Provides that the City of Tampa Firefighters and Police Officers Pension Contract as prescribed by Section 28-17 of the City of Tampa Code as amended (by list of ordinances and various Legislative Acts), is approved, ratified, validated and confirmed.

Section 5. Provides an effective date of upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 27, 2004

WHERE? *The Tampa Tribune*, a daily newspaper of general circulation, Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to the Economic Impact Statement provided by the City of Tampa, the increased retirement benefits provided for by this bill will cost \$3,500,000 for FY 04-05. Anticipated sources of funding include employee and city contributions, and chs. 175 and 185 revenue.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Actuarial Statement of Fiscal Soundness provided by the Division of Retirement states:

1. The bill affects neither the Florida Retirement System nor the System's Trust Fund.
2. The bill satisfies the requirements of art. X, s. 14 of the State Constitution and the provisions of ch. 112, part VII, F.S.
3. The bill provides increased benefits.
4. The actuarial valuation prepared as of October 1, 2002, established an 11.52 percent member contribution rate and a 15.44 percent city contribution rate for the year then beginning and paid in the fiscal year beginning October 1, 2003. On the basis of the same member and financial

data but using the data for DROP members as of October 1, 2003, and interim data regarding those surviving spouses and retirees affected by the poverty minimum benefits, with all the proposed benefit improvements, the member contribution rate increases to 17 percent and the city rate increases to 22.78 percent. The dollars increase from \$8,129,000 to \$11,991,000 for the members, and from \$10,892,000 to \$16,067,000 for the city. This includes the amortization over 30-years of the additional \$66,069,000 unfunded actuarial liability.

The fund's consulting actuary also estimated the impact on the member/city contributions rates reflecting the approximately 15.9 percent return on the fund's assets for the year ending September 30, 2003. On the basis that such entire investment return will be allocated to the base plan to make-up for the losses in the prior two years, that there are no other actuarial gains or losses for the year ending September 30, 2003, and reflecting all benefit improvements, it is estimated that the contribution rates for the fiscal year beginning October 1, 2004, would range from approximately 12 percent to 17 percent for members, and from 16 percent to 23 percent for the city.<sup>4</sup>

This bill is opposed a number of groups, including the City of Tampa Retired Fire and Police Association. These parties have various concerns, including the omission of retirees from the multiplier increase, and the assertion that the provisions of the bill may endanger the stability of the pension.

#### **IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES**

None.

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<sup>4</sup> This represents a range in combined (employee and employer) contributions from 28 to 40 percent. The Florida Retirement System (FRS) current contribution rate for special risk employees (See, s. 121.0515, F.S., for the criteria for special risk membership which includes law enforcement and firefighter employees.) is 18.53 percent. There is no employee contribution in the FRS special risk plan.