

1 A bill to be entitled
 2 An act relating to the City of Clearwater, Pinellas
 3 County; amending chapter 30658 (1955), Laws of Florida, as
 4 amended; updating terminology; revising the interval at
 5 which actuarial valuations of the city's fire pension fund
 6 shall be made; providing eligibility for election to the
 7 board of trustees of the fire pension fund; providing that
 8 board members may be appointed in certain circumstances;
 9 removing a requirement for payment of certain warrants;
 10 providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Chapter 30658 (1955), Laws of Florida, as
 15 amended, is amended to read:

16 Section 1. Creation of fund; contributions; transfer of
 17 property to trustees; tax authorized.--

18 (1) There is hereby created a fund to be known as the
 19 pension fund of the Fire Department of the City of Clearwater,
 20 Florida. Each member of the fire department, as defined in ~~by~~
 21 section 2 ~~of this act~~ shall pay into said fund 6 ~~six~~ percent of
 22 his or her salary each month, the same to be deducted by the
 23 director of finance and deposited with said fund for the purpose
 24 of assisting in the payment of benefits to be paid by this act;
 25 provided that no firefighter ~~fireman~~ shall be required to
 26 contribute more than 6 ~~six~~ percent of a salary equivalent to
 27 that received by a firefighter ~~fireman~~ holding the rank of
 28 captain.

29 (2) All right, title, and interest in and to said fund,
 30 assets, and securities of the fire pension fund collected under
 31 the provisions of chapter 175, Florida Statutes, shall be
 32 divided on a pro rata ~~pro rata~~ basis between the firefighters
 33 ~~firemen~~ of the City of Clearwater participating under this act
 34 and fund and all other firefighters ~~firemen~~ employed by the City
 35 of Clearwater, and said pro rata ~~pro rata~~ portion of said moneys
 36 shall be deposited into this fund.

37 (3) The City of Clearwater, ~~Florida,~~ shall levy, assess,
 38 and collect a tax upon all property in the City of Clearwater in
 39 the same manner as other taxes are levied, assessed, and
 40 collected not to exceed six-tenths ~~(6/10)~~ of one mill, the same
 41 to be used with the members' annual contributions heretofore
 42 provided for, and such other contributions as the fund may
 43 receive from any source including earnings on the assets held by
 44 the pension fund. Such assessment and tax shall commence as of
 45 the first taxable year after the effective date of this act and
 46 shall continue for a period of 35 ~~thirty five (35)~~ years
 47 thereafter, except as herein otherwise provided; however, the
 48 rate of assessment and tax for the first 10 ~~ten (10)~~ years from
 49 the effective date of this act shall be six-tenths ~~(6/10)~~ of one
 50 mill, except as herein otherwise provided.

51 (4) If at any time subsequent to the effective date of
 52 this act there shall be a total reassessment of all taxable real
 53 property and improvements thereon within the corporate limits of
 54 the City of Clearwater, then effective commencing with the first
 55 taxable year thereafter the millage rate of the tax that the
 56 city shall levy, assess, collect, and contribute to the fund

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57 shall be automatically reduced and shall remain at the same rate
58 unless subsequently reduced by other reassessments or changed as
59 herein otherwise provided.

60 (5) The formula for reducing the millage rate of the tax
61 will be based on the assessed value of all taxable property in
62 the City of Clearwater for the calendar year immediately
63 preceding the year in which the reassessment takes effect. The
64 estimated value of new construction and annexed real property
65 that was added to the tax assessment roll will be deducted from
66 the reassessed taxable value and the difference between the
67 remaining value and the taxable value of the preceding year
68 shall be computed as a percentage of increased valuation that
69 has been realized directly because of the reassessment, and that
70 percentage shall be applied to reduce the six-tenths ~~(6/10)~~ of
71 one mill proportionately. In estimating the value of new
72 construction and annexed property, historical trends, building
73 permits, and actual annexation shall be used.

74 (6) If homestead exemption from ad valorem real property
75 taxes is eliminated by competent authority, then the applicable
76 millage rate of the tax to be levied by the city, or the
77 equivalent thereof, shall be applied to the total assessment
78 rolls of all taxable property within the city adjusted by
79 deducting therefrom the increase in value on said rolls caused
80 by the elimination of said homestead tax exemption.

81 (7) If any funds or assets remain in the pension fund
82 after the satisfaction of all required pension payments and
83 expenses, then such funds and assets shall be paid over and
84 transferred to and become a part of the pension fund for the

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85 | general employees of the City of Clearwater.

86 | (8) ~~Sec. 1A. Actuarial review and valuation of~~
87 | ~~plan.~~ Actuarial valuations of the fund shall be made at
88 | intervals of not more than 2 ~~two (2)~~ years during the first 10
89 | ~~ten (10)~~ years commencing with the effective date of this act;
90 | thereafter, actuarial valuations shall be made at intervals of
91 | not more than 3 years ~~on an annual basis~~. Such actuarial
92 | valuations shall be made by a professional actuarial firm
93 | mutually agreed upon between the city and the trustees of said
94 | fund. If the city and the trustees cannot agree upon the
95 | actuarial firm to be hired within 90 ~~ninety (90)~~ days after
96 | interviewing prospective actuarial firms, a firm shall be
97 | selected by lot. If selection by lot is used, the city shall
98 | choose two ~~(2)~~ firms and the trustees two ~~(2)~~ firms. The firm
99 | then selected shall be that firm whose name is drawn from the
100 | names of the four ~~(4)~~ firms previously selected.

101 | (9) Beginning with the actuarial valuation made at the end
102 | of the 10th ~~tenth (10th)~~ year after the effective date of this
103 | act and after each valuation made after that date, the trustees
104 | of said fund and the city shall review the valuations to
105 | determine if the original 35 ~~thirty-five (35)~~ years of
106 | contributions by the city will still be necessary. If the
107 | actuarial valuations indicate that a shorter time of funding is
108 | necessary to fund the amended benefits of the plan, the city
109 | will have the option to either reduce the millage or shorten the
110 | number of years that contributions will be made. Should the city
111 | elect to do either of the above, and at a later date, it is
112 | determined by one of the actuarial valuations that the amount

113 being contributed by the city will not properly fund the
 114 benefits provided by the plan, the city shall increase its
 115 contributions to the maximum six-tenths ~~(6/10)~~ of one mill, or
 116 the adjusted rate thereof pursuant to the procedure set forth in
 117 this section ~~1 hereof~~ because of an overall tax reassessment of
 118 property, whichever is less, for whatever period the deficit
 119 continues to exist. If the actuarial valuation made after the
 120 first 10-year ~~ten (10) year~~ period or any subsequent valuation
 121 indicates that the equivalent of six-tenths ~~(6/10)~~ of one mill
 122 or the adjusted rate thereof pursuant to the procedure set forth
 123 in this section ~~1 hereof~~ because of an overall tax reassessment
 124 of property, whichever is less, contributed by the city for the
 125 period of 35 ~~thirty five (35)~~ years will not properly fund the
 126 amended benefits provided by the plan, or if the funds on
 127 reserve at any time should become insufficient to pay the
 128 benefits provided by the plan, then the city shall provide funds
 129 from non-ad valorem revenues of the City of Clearwater to pay
 130 all such benefits for so long as any person is entitled to
 131 compensation under this act.

132 Section 2. Definitions. -- ~~As when~~ used in this act, the
 133 term ~~chapter~~:

134 (1)(a) ~~The term~~ "City" shall mean the City of Clearwater,
 135 Florida.

136 (2)(b) ~~Wherever the word~~ "Board" ~~appears in this act it~~
 137 shall mean the board of trustees, and their successors in
 138 office, established by the provisions of this act for the
 139 purpose of performing the duties and exercising the powers
 140 herein granted to said board.

141 (3) ~~(e)~~ The term "Firefighters" ~~"firemen"~~ as used in this
 142 act shall be construed as including all officers and
 143 firefighters ~~firemen~~ regularly employed in the Fire Department
 144 of the City of Clearwater, ~~Florida~~, who have been certified to
 145 permanent status by the civil service board of the City of
 146 Clearwater, and excluding the staff assistants ~~secretaries,~~
 147 ~~stenographers~~ and other civilian employees.

148 (4) ~~(d)~~ The term "Fund" as used in this act shall mean the
 149 pension and benefit fund herein established.

150 (5) ~~(e)~~ The term "Service" as used in this act shall mean
 151 the period during which a person is an active member of the fire
 152 department, qualified under the civil service rules of the City
 153 of Clearwater, ~~Florida~~, except where said word is used clearly
 154 to designate military service in the Armed Forces of the United
 155 States of America.

156 (6) ~~(f)~~ The term "Permanently disabled" shall mean a
 157 disability which arises from sickness or accident and is of such
 158 nature that the member sustaining such disability is unable to
 159 perform the duties ordinarily required of a member of the fire
 160 department and from which the said member is not expected to
 161 recover sufficiently to carry on the duties ordinarily required
 162 of a member of the fire department.

163 (7) ~~(g)~~ The term "Members of the fire department" shall be
 164 construed as including all officers and firefighters ~~firemen~~
 165 regularly employed in said department, who have been certified
 166 to permanent status by the civil service board of said city,
 167 provided, however, the staff assistants ~~secretaries,~~
 168 ~~stenographers~~ and other civilian employees shall not be covered

169 by the provisions of this act.

170 Section 3. Members participating.--Notwithstanding any
 171 other provisions to the contrary, the provisions of this act
 172 shall only apply to firefighters ~~firemen~~ or members of the fire
 173 department employed in said department prior to July 1, 1963.
 174 All members in the service of the fire department at the time
 175 this act becomes law shall receive the benefits of the time of
 176 service previous to the passage of this act.

177 Section 4. Credit for members of armed forces.--Any member
 178 of the fire department covered by this act, who is drafted into
 179 the armed forces of the United States at any time or who
 180 voluntarily enlists during the time the United States is engaged
 181 in war, shall receive full credit towards retirement for all
 182 time spent in the service while a member of the fire
 183 department, provided that he or she does not voluntarily
 184 reenlist ~~re-enlist~~, and further provided that his or her
 185 separation from the United States service is of an honorable
 186 nature.

187 Section 5. Board of trustees; ~~election,~~ appointment,
 188 membership, terms of office.--The board of trustees of said fund
 189 shall consist of the mayor, who shall be chairperson ~~chairman~~,
 190 the chief of the fire department, and three ~~(3)~~ members of the
 191 said department either active or retired under said pension
 192 plan. The election of members from the department shall be held
 193 no later than ~~on~~ the 15th day of June of each year. The persons
 194 eligible to vote are, ~~and only~~ members of the fire department ~~of~~
 195 ~~the City of Clearwater, Florida,~~ either active or retired and
 196 participating under this plan. In the event that no member of

197 the plan is available to stand for election, then a current
 198 firefighter of the fire department below the rank of chief who
 199 is willing to serve shall be placed on the ballot. In the event
 200 that no one is available to stand for election, or in the event
 201 that no one is available to participate in the voting, then
 202 members of the board will be appointed by the city council from
 203 membership of the city council, ~~shall be entitled to vote in~~
 204 ~~such election.~~ Members of the board so elected or appointed
 205 shall take office on the 1st day of July of each year. Initial
 206 ~~members so elected~~ shall serve as follows: one for 1 ~~one (1)~~
 207 year, one for 2 ~~two (2)~~ years, and one for 3 ~~three (3)~~ years.
 208 The elected or appointed members each year shall serve for a 3-
 209 year ~~three (3) year~~ term. Any vacancy on said board, caused by
 210 the death, resignation, or dismissal of any of the ~~elected~~
 211 members shall be filled by an election or appointment as above
 212 provided.

213 Section 6. Investment powers. -- The board of trustees shall
 214 have the power to:

215 (1) ~~1.~~ Invest and reinvest the assets of the pension fund
 216 of the Fire Department of the City of Clearwater, ~~Florida,~~ in
 217 annuity and life insurance contracts of life insurance companies
 218 in amounts sufficient to provide, in whole or in part, the
 219 benefits to which all of the participants in the pension fund of
 220 the fire department shall be entitled under the provisions of
 221 this act, and pay the initial and subsequent premiums thereon.

222 (2) ~~2.~~ Invest and reinvest the assets of the pension fund
 223 of the fire department in:

224 (a) ~~a.~~ Time or savings accounts of a national bank, a state

225 bank insured by the Federal Deposit Insurance Corporation, or a
 226 savings, building, and loan association insured by the Federal
 227 Savings and Loan Insurance Corporation.

228 (b)~~b.~~ Obligations of the United States or obligations
 229 guaranteed as to principal and interest by the government of the
 230 United States.

231 (c)~~c.~~ County bonds containing a pledge of the full faith
 232 and credit of the county involved, bonds of the Florida
 233 development commission, or of any other state agency, which have
 234 been approved as to legal and fiscal sufficiency by the State
 235 Board of Administration.

236 (d)~~d.~~ Obligations of any municipal authority issued
 237 pursuant to the laws of this state; provided, however, that for
 238 each of the 5 ~~five~~ years next preceding the date of investment
 239 the income of such authority available for fixed charges, shall
 240 have been not less than 1 1/2 ~~one and one-half~~ times its average
 241 annual fixed-charges requirements over the life of its
 242 obligations.

243 (e)~~e.~~ Common stocks, preferred stocks and bonds, and other
 244 evidences of indebtedness issued or guaranteed by a corporation
 245 organized under the laws of the United States, any state, or any
 246 organized territory of the United States or the District of
 247 Columbia, provided:

248 1.~~(1)~~ The corporation is listed on any one or more of the
 249 recognized national stock exchanges and holds a rating in one of
 250 the three highest classifications by a major rating service;

251 2.~~(2)~~ The corporation has paid cash dividends for a period
 252 of 7 ~~seven~~ fiscal years next preceding the date of acquisition;

253 3.~~(3)~~ The corporation fulfills either of the following
 254 standards:

255 a. Over the period of the 7 ~~seven~~ fiscal years immediately
 256 preceding purchase, the corporation must have earned after
 257 federal income taxes, an average amount per annum at least equal
 258 to two times the amount of the yearly interest charged upon its
 259 bonds, notes, or other evidences of indebtedness of equal or
 260 greater security outstanding at date of purchase, and earned
 261 after federal income taxes, an amount at least equal to two
 262 times the amount of such interest charges in each of the 3 ~~three~~
 263 fiscal years immediately preceding purchase; or

264 b. The corporation over the period of 7 ~~seven~~ fiscal years
 265 immediately preceding purchase must have earned after federal
 266 income taxes, an average amount per annum at least equal to 6
 267 percent ~~six per cent~~ of the par value of its bonds, notes, or
 268 other evidences of indebtedness of equal or greater security
 269 outstanding at date of purchase, and earned after federal income
 270 taxes, an amount at least equal to 6 percent ~~six per cent~~ of the
 271 par value of such obligations in each of the 3 ~~three~~ fiscal
 272 years immediately preceding purchase. No investment shall be
 273 made under this sub-subparagraph ~~paragraph~~ upon which any
 274 interest obligation is in default or which has been in default
 275 within the immediately preceding 5-year ~~five-year~~ period; and

276 4.~~(4)~~ The board of trustees shall not invest more than 1
 277 percent ~~one per cent~~ of its assets in the common stock or
 278 capital stock of any one issuing company, nor shall the
 279 aggregate investment in any one issuing company exceed 1 percent
 280 ~~one per cent~~ of the outstanding capital stock of that company;

281 nor shall the aggregate of its investments under this section at
 282 cost exceed 60 percent ~~sixty per cent~~ of the fund's assets.

283 (3) The trustees in the performance of their duties are
 284 authorized to seek, obtain, and engage independent professional
 285 investment counsel and advice and to pay reasonable charges for
 286 said services.

287 Section 7. Approval of pension, relief, and benefit
 288 payments. ~~--The board of trustees shall pay all warrants drawn on~~
 289 ~~such fund, which shall be signed by the mayor of said pension~~
 290 ~~fund counter signed by the chief of the fire department.~~ No
 291 pension, relief, or benefits shall be paid to any person out of
 292 said fund unless ~~the same be~~ approved by a majority vote of the
 293 board, but the board shall not refuse a pension or other
 294 benefits to any person who is qualified to receive a pension or
 295 other benefits under the terms of this act.

296 Section 8. Disability and death benefits unconnected with
 297 duty. ~~--Members of the fire department with less than~~ 20 ~~twenty~~
 298 ~~(20)~~ years of service who ~~shall~~ have become permanently disabled
 299 when such disability was unconnected with the performance of his
 300 or her duty in the fire department, and not caused by his or her
 301 own willful ~~wilful~~ intent, shall, upon satisfaction of the board
 302 that he or she is so permanently disabled, receive as a pension
 303 the sum of 2 1/2 percent ~~2-1/2%~~ of the prevailing wage for the
 304 rank he or she holds ~~holds~~ per month per each year of service,
 305 including a pro rata share for any part of a year's service. He
 306 or she shall also receive a children's benefit of 7 1/2 percent
 307 ~~7-1/2%~~ of the prevailing wage for the rank he or she holds for
 308 each of his or her children under the age of 18 ~~eighteen (18)~~

309 | years at the time the member shall be so pensioned; providing,
 310 | however, that said pension, including children's benefits, shall
 311 | not exceed 50 percent ~~fifty per cent (50%)~~ of the prevailing
 312 | wage for the rank the member held when pensioned. All of said
 313 | sums shall be payable monthly. Upon the death of said member so
 314 | pensioned, his or her surviving spouse ~~widow~~, provided the two
 315 | were lawfully married ~~she was his wife~~ at the time the member ~~he~~
 316 | was pensioned, shall receive the same pension the member ~~he~~ was
 317 | receiving at the time of the member's ~~his~~ death, not to exceed
 318 | 25 percent ~~twenty-five percent (25%)~~ of the prevailing wage for
 319 | the rank the member held when pensioned. Children's benefits of
 320 | 7 1/2 percent ~~7-1/2%~~ of the prevailing wage for the rank held by
 321 | the member at the time he or she was pensioned for each of his
 322 | or her children under the age of 18 ~~eighteen (18)~~ years shall be
 323 | paid to the person or persons having custody of said children,
 324 | providing that the children's benefits, together with the
 325 | surviving spouse's ~~widow's~~ pension, shall not exceed 50 percent
 326 | ~~fifty per cent (50%)~~ of the prevailing wage for the rank the
 327 | member held when pensioned. In the event that all children are
 328 | not in the custody of the same person, the children's benefits
 329 | shall be prorated ~~pro-rated~~. The benefit provided for a child
 330 | shall cease upon reaching the age of 18 ~~eighteen (18)~~ years, or
 331 | upon being married.

332 | Section 9. Death benefits.--If any member of the fire
 333 | department loses ~~shall lose~~ his or her life in the performance
 334 | of his or her duties, or as a direct result thereof, his or her
 335 | surviving spouse ~~widow~~ shall receive the sum of 50 percent ~~fifty~~
 336 | ~~per cent (50%)~~ of the prevailing wage for the rank the member ~~he~~

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337 held when he or she died. Children's benefits of 7 1/2 percent ~~7~~
338 ~~1/2%~~ of the prevailing wage for the rank held by the member at
339 the time he or she died for each of his or her children under
340 the age of 18 ~~eighteen (18)~~ years shall be paid to the person or
341 persons having custody of said children, provided that the
342 children's benefit, together with the surviving spouse's ~~widow's~~
343 pension, shall not exceed 60 percent ~~sixty per cent (60%)~~ of the
344 prevailing wage for the rank the member held when pensioned. In
345 the event that all children are not in the custody of the same
346 person, the children's benefits shall be prorated ~~pro-rated~~. The
347 benefit provided for a child shall cease upon reaching the age
348 of 18 ~~eighteen (18)~~ years or upon being married.

349 Section 10. Disability benefits.--Any member who becomes
350 ~~shall become~~ permanently disabled and whose, ~~which said~~
351 disability is directly caused by the performance of his or her
352 duties, shall be entitled to a pension the sum of which shall be
353 60 percent ~~sixty per cent (60%)~~ of the prevailing wage. Upon his
354 or her death, the rights of his or her surviving spouse ~~widow~~
355 and children under the age of 18 ~~eighteen (18)~~ years shall be
356 the same as provided for in section 9; provided, however, in
357 order to be entitled to the surviving spouse's ~~widow's~~ benefits,
358 the surviving spouse ~~widow~~ must have been the lawful spouse ~~wife~~
359 of the deceased at the time he or she was placed on pension. Any
360 condition or impairment of health of a firefighter ~~fireman~~
361 caused by tuberculosis, hypertension, or heart disease resulting
362 in total or partial disability or death shall be presumed to
363 have been accidental and caused by and suffered in the line of
364 duty unless the contrary is ~~be~~ shown by competent evidence;

365 provided, however, that such firefighter ~~fireman~~ shall have
 366 successfully passed a physical examination before entering into
 367 such service, which examination failed to reveal any evidence of
 368 such condition.

369 Section 11. Beneficiaries of benefits unconnected with
 370 duty.--If any member of the fire department with less than 20
 371 ~~twenty (20)~~ years of service dies ~~shall die~~ from causes
 372 unconnected with the performance of his or her duties, his or
 373 her surviving spouse ~~widow~~ and any children under the age of 18
 374 ~~eighteen (18) years of age, if there be any,~~ shall be entitled
 375 to the benefits provided for surviving spouses ~~widows~~ and
 376 children in section 8 hereof. If any member of the fire
 377 department with 20 ~~twenty (20)~~ years or more of service dies
 378 ~~shall die~~ from causes unconnected with the performance of his or
 379 her duties, his or her surviving spouse ~~widow~~ and any children
 380 under the age of 18 ~~eighteen (18) years of age, if there be any,~~
 381 shall be entitled to the benefits provided for surviving spouses
 382 ~~widows~~ and children in section 13 hereof.

383 Section 12. Retirement at age 65.--Any member now employed
 384 reaching the age of 65 ~~sixty five (65)~~ years shall be retired
 385 and shall be entitled to a pension the sum of 60 percent ~~sixty~~
 386 ~~per cent (60%)~~ of the prevailing wage of the rank at which he or
 387 she retired, providing he or she held that rank for a period of
 388 at least 3 ~~three (3)~~ years immediately prior to the retirement,
 389 or his or her pension shall be based on the lowest rank he or
 390 she has held during the 3 ~~three (3)~~ years immediately preceding
 391 retirement. The above part of this section shall not pertain to
 392 chiefs, whose age limits are governed by civil service rules.

393 Upon the death of the member receiving a pension under the
 394 provisions of this section, his or her surviving spouse ~~widow~~,
 395 providing the two were lawfully married ~~she was his lawful wife~~
 396 at the time of the member's ~~his~~ retirement, shall receive 30
 397 percent ~~per cent (30%)~~ of the prevailing wage of the lowest rank
 398 the member held during the 3 ~~three (3)~~ years immediately
 399 preceding his or her retirement. Children's benefits of 7 1/2
 400 percent ~~7 1/2%~~ of the prevailing wage of the lowest rank held by
 401 the member during his or her last 3 ~~three~~ years of service for
 402 each of his or her children under the age of 18 ~~eighteen (18)~~
 403 years shall be paid to the person or persons having custody of
 404 said children, providing that the children's benefits, together
 405 with the surviving spouse's ~~widow's~~ pension, shall not exceed 60
 406 percent ~~sixty per cent (60%)~~ of the prevailing wage for the rank
 407 the member held when pensioned. In the event that all children
 408 are not in the custody of the same person, the children's
 409 benefits shall be prorated ~~pro-rated~~. The benefits provided for
 410 a child shall cease upon ~~his~~ reaching the age of 18 ~~eighteen~~
 411 ~~(18)~~ years or upon being married.

412 Section 13. Retirement after 20 years' service and later.--

413 (1) Any member of the fire department may retire after 20
 414 ~~twenty (20)~~ years of active service and shall receive the sum of
 415 50 percent ~~fifty per cent (50%)~~ of the prevailing wage of the
 416 lowest rank he or she held during the 3 ~~three (3)~~ years
 417 immediately preceding his or her retirement. Upon the death of
 418 said retired member, the surviving spouse ~~widow~~, providing the
 419 two were lawfully married ~~she was his lawful wife~~ at the time
 420 the member ~~he~~ was pensioned, shall receive 25 percent ~~twenty-~~

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421 ~~five per cent (25%)~~ of the prevailing wage of the lowest rank
422 the member held during the 3 ~~three (3)~~ years immediately
423 preceding his or her retirement. Children's benefits of 7 1/2
424 percent ~~7 1/2%~~ of the prevailing wage of the lowest rank held by
425 the member during his or her last 3 ~~three (3)~~ years of service
426 for each of his or her children under the age of 18 ~~eighteen~~
427 ~~(18)~~ years shall be paid to the person or persons having custody
428 of said children, providing that the children's benefits,
429 together with the surviving spouse's ~~widow's~~ pension, shall not
430 exceed 50 percent ~~fifty per cent (50%)~~ of the prevailing wage
431 for the rank the member held when pensioned. In the event that
432 all children are not in the custody of the same person, the
433 children's benefits shall be prorated ~~pro-rated~~. The benefits
434 provided for a child shall cease upon reaching the age of 18
435 ~~eighteen (18)~~ years or upon being married.

436 (2) Each member of the fire department will increase his
437 or her pension by 2 ~~two~~ percent ~~(2%)~~ of the prevailing wage of
438 the lowest rank he or she held during the 3 ~~three (3)~~ years
439 immediately preceding retirement for each year of service in
440 excess of 20 ~~twenty (20)~~ years, providing that in no case shall
441 the retirement pension herein provided exceed 60 ~~sixty~~ percent
442 ~~(60%)~~ of the prevailing wage of the lowest rank held by the
443 member during the 3 ~~three (3)~~ years immediately preceding
444 retirement. Upon the death of said member of over 20 years'
445 ~~twenty (20) years~~ service, his or her surviving spouse ~~widow~~,
446 providing the two were lawfully married ~~she was his lawful wife~~
447 at the time the member ~~he~~ retired, shall receive one-half ~~(1/2)~~
448 of the pension the member would have been entitled to receive.

449 Children's benefits of 7 1/2 percent ~~7-1/2%~~ of the prevailing
 450 wage for the rank held by the member at the time he or she was
 451 pensioned for each of his or her children under the age of 18
 452 ~~eighteen (18)~~ years shall be paid to the person or persons
 453 having custody of said children, providing that the children's
 454 benefits, together with the surviving spouse's ~~widow's~~ pension,
 455 shall not exceed the pension the member ~~himself~~ was receiving.
 456 In the event that all the children are not in the custody of the
 457 same person, the children's benefits shall be prorated ~~pre-~~
 458 ~~rated~~. The benefits provided for a child shall cease upon
 459 reaching the age of 18 ~~eighteen (18)~~ years ~~of age~~ or upon being
 460 married.

461 Section 14. Mother or father as beneficiary.--If there is
 462 ~~be~~ no surviving spouse ~~widow~~ of the deceased member entitled to
 463 benefits under this act, and there is ~~shall be~~ a mother or
 464 father who is entirely dependent upon said member for support,
 465 the member's ~~his~~ mother or father shall receive the same pension
 466 to which the surviving spouse ~~widow~~ would have been entitled.

467 Section 15. Cessation of pension to surviving spouse;
 468 continuation of benefits to children.--Any pension being paid to
 469 a surviving spouse ~~widow~~ hereunder shall cease upon his or her
 470 death or remarriage. No surviving spouse's ~~widow's~~ pension shall
 471 be paid to any surviving spouse ~~widow~~ unless he or she was the
 472 lawful spouse ~~wife~~ of the deceased member at the time the member
 473 he was placed on pension. This shall not be construed to mean
 474 that the pension provided for each of the children of the
 475 deceased under the age of 18 ~~eighteen (18)~~ years ~~of age~~ shall
 476 cease by virtue of the remarriage of the surviving spouse

477 ~~mother~~, but shall continue until the child or children shall
 478 reach the age of 18 ~~eighteen (18)~~ years or marry or be legally
 479 adopted.

480 Section 16. Benefits not assignable nor subject to
 481 garnishment.--No pension or other benefits provided for herein
 482 shall be assignable or subject to garnishment for debts or other
 483 legal process.

484 Section 17. Pension for discharged members.--Members of
 485 the fire department who are eligible and entitled to a pension
 486 at the time charges are preferred against said member for
 487 removal from the fire department shall not be deprived of the
 488 pension to which he or she was entitled. Any member who has
 489 ~~shall have~~ served for 12 ~~Twelve (12)~~ years in the fire
 490 department and is ~~who shall be~~ discharged shall be entitled to a
 491 retirement pension upon the basis provided for in section 8 ~~of~~
 492 ~~this act.~~

493 Section 18. Effect of judgment for damages against
 494 city.--Any judgment received by any member of the fire
 495 department or persons entitled to a pension under this act,
 496 against the City of Clearwater for damages on account of injury
 497 or death of a member of the fire department, shall thereby void
 498 all rights to a pension under this act. This shall not be a bar
 499 to a suit for damages. This section shall not be construed to
 500 affect proceedings under the Workers' Compensation Law ~~Workmen's~~
 501 ~~Compensation Act of the State of Florida.~~

502 Section 19. Election to come within plan; discharge after
 503 5 years' service.--

504 (1) Every employee of the fire department now under the

505 present pension plan, acts of 1939, shall have 30 ~~thirty (30)~~
 506 days to reject the terms of this act, and, in the event of
 507 rejection, said member shall file with the chief of said
 508 department his or her objections in writing, and in the event of
 509 his or her failure to do so, shall be conclusively presumed to
 510 accept the terms of this act.

511 (2) All employees of said department employed after the
 512 act becomes a law shall be, as a condition of their employment,
 513 subject to all of the terms and provisions of this act. Any
 514 member of said department discharged or voluntarily leaving the
 515 service after a period of 5 ~~five (5)~~ years, shall be entitled to
 516 a refund of 80 percent ~~eighty per cent (80%)~~ of all moneys
 517 ~~monies~~ deducted from his or her salary for said pension fund.

518 (3) Notwithstanding the above provision, any employee
 519 subject to the terms and provisions of this act may transfer
 520 such employee's contributions and interest earnings which have
 521 accrued during the period of time that such employee
 522 participated in the plan to the City of Clearwater Employees
 523 Pension Plan.

524 Section 20. Payments under prior plan.--

525 (1) All pensions heretofore granted by the board of
 526 trustees of the fire pension fund of the City of Clearwater,
 527 shall continue to be paid in accordance with the terms and
 528 provisions of said plan prior to this amendment [chapter 72-506,
 529 Laws of Florida].

530 (2) All pensions hereafter granted under the provisions of
 531 this plan shall be in accordance with the provisions of this act
 532 [chapter 72-506, Laws of Florida]. However, the total increase

533 in pension payments to any firefighter ~~fireman~~ participating
 534 hereunder and commencing to receive retirement benefits after
 535 the effective date of this act [chapter 72-506, Laws of Florida]
 536 shall be limited to a maximum of 100 ~~one hundred~~ percent ~~(100%)~~
 537 of the initial monthly pension payment provided under this plan.
 538 In no case shall a pension or any adjustment to a pension be
 539 calculated on the compensation of a rank higher than that of a
 540 captain. This shall not be a bar to a higher-ranking ~~higher~~
 541 ~~ranking~~ officer receiving a pension, but will limit the amount
 542 of such pension or adjustment to that of a captain's rank.

543 Section 21. Qualifications of applicants for
 544 employment.--Applicants for appointment as members of the fire
 545 department must have been residents of the city for 1 ~~one~~ ~~(1)~~
 546 full year, next prior to application for appointment. They must
 547 be an American citizen; they must stand physical examination by
 548 the city physician; they must not be over 35 ~~thirty-five~~ ~~(35)~~
 549 years of age; and they must be of good moral character and
 550 habits and have qualified themselves in accordance with such
 551 civil service rules as may be in force at the time of their
 552 application and appointment to the fire department; provided,
 553 however, this provision shall not apply to the chiefs of the
 554 fire department.

555 Section 22. Reexamination of pensioners.--Any member of
 556 the fire department who has ~~shall have~~ retired on pension due to
 557 permanent disability shall be subject to the call of the board
 558 for reexamination ~~re-examination~~, and if found able to perform
 559 active duty, the board shall have the power to, with the consent
 560 of the city manager and the chief of the fire department, compel

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561 the return of said member to the department, and said member so
562 returned shall enjoy the same rights that he or she had at the
563 time he or she was placed upon pension, and in the event the
564 said member so ordered to return shall refuse to comply with the
565 said order within 10 ~~ten~~ ~~(10)~~ days from issuance thereof, he or
566 she shall forfeit his or her rights to his or her pension.

567 Section 23. Change of address; notice; determination of
568 health recovery.--It shall be the duty of all persons on pension
569 not granted by virtue of 20 ~~twenty~~ ~~(20)~~ years of service to file
570 with the pension board the address of his or her residence and
571 to immediately notify the said pension board of any change in
572 said residence, if any there be. The pension board shall have
573 the power to call any of such pensioners for examination to
574 determine whether or not the said pensioner has recovered his or
575 her health to the extent of being able to perform his or her
576 former duties on the fire department, upon giving 30 days'
577 ~~thirty~~ ~~(30)~~ ~~days~~ written notice of such recall for examination
578 by registered letter addressed to the last address on file with
579 the pension board. If said pensioner shall fail to submit
580 himself or herself for such examination within the said 30-day
581 ~~thirty~~ ~~(30)~~ ~~day~~ period, his or her pension shall be suspended
582 until such time as the pensioner shall establish before the said
583 board that he or she is still entitled to the pension he or she
584 is receiving, and in the event the pensioner shall fail within 1
585 ~~one~~ ~~(1)~~ year to respond to said notice for examination and
586 suspension of his or her pension, it shall be conclusively
587 deemed that the said pensioner is not entitled to said pension
588 and it shall be revoked and set aside.

589 Section 24. Cessation of benefits to children upon
 590 marriage.--Any benefits paid under the provisions of this act to
 591 children shall cease upon the marriage of said child or children
 592 or legal adoption of said child or children.

593 Section 25. Determination of credit while laid off or on
 594 pension.--If any member of the fire department shall be laid off
 595 due to reduction in the force or placed on pension not service-
 596 connected and then returned to the service, only the time during
 597 which said member was laid off or upon pension shall be deducted
 598 in computing the active service referred to in this act. Any
 599 member of the department who shall be placed on pension due to
 600 injury resulting from the performance of his or her duty, upon
 601 returning to the service ~~he~~ shall receive credit only for the
 602 active service actually rendered in said department in computing
 603 his or her active service.

604 Section 26. Repeal of conflicting law; exception.--All
 605 laws or parts of laws in conflict herewith be and the same are
 606 hereby repealed, except as provided by section 20 ~~of this act,~~
 607 and chapter 19112, Laws of Florida 1939, be and the same is
 608 hereby repealed.

609 ~~Section~~ See. 27. City obligated to provide funds from non-
 610 ad valorem sources.--Notwithstanding any other limitations and
 611 provisions contained in chapters 30658, Laws of Florida, 1955,
 612 and 72-506, Laws of Florida, specifically including, but not
 613 limited to, the limitation of 35 ~~thirty five (35)~~ years for the
 614 ad valorem tax funding of contributions to the pension fund by
 615 the City of Clearwater, it is hereby provided that it shall be
 616 the obligation of the City of Clearwater, if the assets on

617 | reserve in such pension fund~~7~~, should, at any time, become
 618 | insufficient to pay all of the payments and benefits provided
 619 | for by the pension fund and plan, to contribute and provide
 620 | funds from non-ad valorem revenues of the city to said fund in
 621 | an amount sufficient to pay all such benefits as heretofore have
 622 | accrued or may heretofore become payable under said laws for so
 623 | long as any person shall be entitled to same. It is the intent
 624 | of this section that the city guarantee from non-ad valorem tax
 625 | revenue sources all benefits which would be payable under the
 626 | plan at any time to the same extent as if such fund had assets
 627 | available from member contributions sufficient for that purpose.

628 | Section 28. Referendum.--This act shall not become
 629 | effective until and unless the same be ratified by a majority of
 630 | the qualified electors of the City of Clearwater, voting in an
 631 | election called and held for the purpose of ratification or
 632 | rejection thereof in the manner provided by law for the calling
 633 | and holding of special elections in said city. In the event of
 634 | ratification of this act, the same shall become effective
 635 | immediately upon the official determination of said
 636 | ratification. The submission of other measures for approval or
 637 | rejection, at the same special election in which this act is
 638 | submitted for ratification or rejection, shall in no way be
 639 | considered to invalidate or render void the special election in
 640 | which the ratification or rejection of this act is submitted.

641 | Section 29. Severability.--If any section, paragraph,
 642 | phrase, or sentence contained in this act shall be held
 643 | inoperative, unconstitutional, or void by any court of competent
 644 | jurisdiction, it shall in no way affect the remaining portions

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645 | of said act.

646 | Section 2. This act shall take effect upon becoming a law.