

ENROLLED  
 HB 1089

2008 Legislature

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.

ENROLLED  
 HB 1089

2008 Legislature

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

ENROLLED  
HB 1089

2008 Legislature

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

## ENROLLED

HB 1089

2008 Legislature

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

ENROLLED  
 HB 1089

2008 Legislature

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.

ENROLLED  
HB 1089

2008 Legislature

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

ENROLLED  
HB 1089

2008 Legislature

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

ENROLLED  
HB 1089

2008 Legislature

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



ENROLLED  
 HB 1089

2008 Legislature

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;

ENROLLED  
 HB 1089

2008 Legislature

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;

ENROLLED  
HB 1089

2008 Legislature

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)~~

ENROLLED  
HB 1089

2008 Legislature

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~~

ENROLLED  
 HB 1089

2008 Legislature

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;

ENROLLED  
 HB 1089

2008 Legislature

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.

ENROLLED  
HB 1089

2008 Legislature

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-~~

ENROLLED  
 HB 1089

2008 Legislature

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.



ENROLLED  
 HB 1089

2008 Legislature

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

ENROLLED  
 HB 1089

2008 Legislature

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

ENROLLED  
 HB 1089

2008 Legislature

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

ENROLLED  
 HB 1089

2008 Legislature

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

## ENROLLED

HB 1089

2008 Legislature

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.

ENROLLED  
 HB 1089

2008 Legislature

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~~ Sec. 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

ENROLLED  
 HB 1089

2008 Legislature

617 | reserve in such pension fund, 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

ENROLLED  
HB 1089

2008 Legislature

645 | of said act.

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