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1 A bill to be entitled
2 An act relating to the City of Orlando Firefighter Pension
3 Fund, Orange County; amending chapter 23444, Laws of
4 Florida, 1945, as amended; providing definitions of "legal
5 guardian" and "guardians of said issue"; clarifying the
6 amount of certain disability pension; providing that
7 surviving spouses and other beneficiaries are entitled to
8 cost of living increases upon the death of eligible
9 firefighters; approving ordinances enacted by the City of
10 Orlando concerning the firefighter pension plan;
11 incorporating applicable federal and state laws into the
12 firefighter pension plan; providing that sections 112.60-
13 112.67, Florida Statutes, prevail in the event of any
14 conflict; providing that the act is contingent upon a
15 collective bargaining agreement; providing retroactive
16 effect; providing effective dates.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 2 of chapter 23444, Laws of Florida,
21 1945, as amended by chapters 73-573 and 2000-448, Laws of
22 Florida, and by City of Orlando Ordinance 33874, enacted June
23 18, 2001, is amended to read:

24 Section 2. Employees included.

25 Members of said Fire Department shall be construed as
26 including all officers and firefighters regularly employed in
27 said department, and whose employment shall be regular and
28 continuous and not of a temporary character, provided, however,

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29 the secretaries, stenographers and switchboard operators shall
30 not be covered by the provisions of this Act. For the purpose of
31 this Act the term "widow" shall include widower; the term "wife"
32 shall include "husband"; the term "mother" shall include
33 "father"; reference to the masculine pronoun shall include the
34 feminine and vice versa; the term "issue" shall include a
35 member's natural and adopted children as well as children in
36 gestation; and the terms "legal guardian" or "guardians of said
37 issue" shall include a court-appointed guardian of the property
38 of said issue or a trustee of a trust of which said issue is a
39 beneficiary. Further provided that members who are DROP
40 participants will no longer be participants in this fund, nor
41 eligible for any benefits hereunder.

42 Section 2. Section 9 of chapter 23444, Laws of Florida,
43 1945, as amended by City of Orlando Ordinance 0801141004,
44 enacted January 1, 2008, is amended to read:

45 Section 9. Permanent disability pension; in line of duty.

46 Any active member of the fire department who shall become
47 permanently and totally disabled, if the disability is directly
48 caused by and attributable to the performance of duty as a
49 member of the department, shall be entitled to a pension of a
50 monthly sum of 80 percent of the member's average monthly
51 salary; provided, however, a member who has completed 40 years
52 of credited service shall be entitled to receive an additional 2
53 percent over the 80 percent for each year of credited service in
54 excess of 40 years of credited service but not to exceed 100
55 percent ~~money equivalent to that sum of money which said member,~~
56 ~~whether or not properly qualified, would have been entitled to~~

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57 ~~elect as a monthly pension for twenty five (25) years of service~~
58 ~~under amended Section 12 of this act.~~ The phrase "permanently
59 and totally disabled" shall be construed to mean and include the
60 loss of one or more limbs, loss of sight in one or both eyes,
61 loss of hearing in one or both ears and any other condition
62 which renders the member unfit to perform the required duties of
63 the member's rank held at the time of impairment. Upon the death
64 of the member on said disability pension provided in this
65 section, benefits shall be paid as follows:

66 (1) If a member has not elected and started receipt of the
67 Section 34(1)(a) life with ten (10) years certain form of
68 payment, or the Section 34(1)(b) life only form of payment, or
69 the Section 34(1)(c) joint pensioner form of payment, benefits
70 shall be paid pursuant to Section 14, "Benefits Payable Upon
71 Death of Member", to the surviving spouse and issues under the
72 age of eighteen (18), or dependent parents, and Section 35, "10
73 Year Certain Guarantee", if applicable.

74 (2) If a member has elected and started receipt of the
75 Section 34(1)(a) life with ten (10) years certain form of
76 payment and the member has not received 120 monthly payments,
77 then benefits otherwise payable to the member shall be paid
78 pursuant to Section 32, "Beneficiaries", for the remainder of
79 the 120 monthly payments beginning on the first day of the month
80 immediately following the member's death regardless of the age
81 of the deceased member. If the firefighter makes this election,
82 no benefits shall be paid pursuant to Section 14(5)(b) or
83 Section 14(5)(d) to the surviving spouse, issue in being under
84 the age of eighteen (18), or dependent parents. Provided

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85 however, the firefighter may designate as beneficiaries the
86 surviving spouse, issue in being under the age of eighteen (18),
87 or dependent parents to receive the remainder of the 120 monthly
88 payments.

89 (3) If a member has elected and started receipt of the
90 Section 34(1)(b) life only form of payment, no further payments
91 shall be made upon the death of the member.

92 (4) If a member has elected and started receipt of the
93 Section 34(1)(c) joint pensioner form of payment, benefits shall
94 be paid as provided therein.

95
96 Notwithstanding anything that may be to the contrary in this
97 act, at age forty-seven (47), a member then receiving benefits
98 under this section may make the election provided in Section
99 12(1) or Section 12(2) as the case may be and Section 18, all of
100 this act (Laws of Fla. ch. 23444(1945), as amended) in the
101 manner therein specified, provided he is qualified by length of
102 service prior to the disability and provided he makes the
103 election within the thirty-day period after reaching age forty-
104 seven (47). If the election is exercised in favor of the
105 pension, the pension shall be based only on service and salary
106 earned prior to the date of disability. If the election is
107 exercised, all of the member's rights and the rights of the
108 member's surviving spouse and issue, and dependent parents under
109 Section 14 shall cease.

110 Section 3. Subsection (2) is added to section 19 of
111 chapter 23444, Laws of Florida, 1945, as amended by chapter
112 2000-448, Laws of Florida, to read:

113 Section 19. Cost of living increase.

114 (2) Those persons who are eligible to receive monthly
 115 retirement benefits upon the death of a firefighter who was
 116 eligible for cost of living increases pursuant to chapter 88-
 117 518, chapter 89-459, or chapter 2000-448, Laws of Florida, shall
 118 upon the death of the firefighter receive the appropriate
 119 percentage of the firefighter's monthly retirement benefit,
 120 including the percentage of cost of living increases previously
 121 awarded, and shall receive future percentage cost of living
 122 increases at the same time the deceased firefighter would have
 123 received the cost of living increases but for the death of the
 124 firefighter. The cost of living increases percentage previously
 125 received by the firefighter and the cost of living increases
 126 percentage awarded after the firefighter's death shall be
 127 applied to such person's monthly retirement benefit.

128 Section 4. City of Orlando Ordinance 33723, enacted April
 129 16, 2001, relating to tax qualification of the plan under the
 130 Internal Revenue Code, City of Orlando Ordinance 33874, enacted
 131 June 18, 2001, and City of Orlando Ordinance 0801141004, enacted
 132 January 1, 2008, relating to minimum benefits and minimum
 133 standards required by chapter 99-1, Laws of Florida, are hereby
 134 approved, ratified, validated, and confirmed, and shall be
 135 considered part of chapter 23444, Laws of Florida, 1945, as
 136 amended.

137 Section 5. Section 26 is added to chapter 23444, Laws of
 138 Florida, 1945, as amended, to read:

139 Section 26. Applicable federal and state laws.

140 (1) The applicable provisions of federal and state law now

141 existing or as they may exist in the future are incorporated
142 herein by reference, except for provisions of applicable law
143 which are permissive or not preemptive and not authorized
144 herein. The board of trustees is hereby authorized to adopt
145 written rules setting forth the specifics of applicable
146 mandatory provisions of federal and state laws as they now exist
147 or may exist in the future. Applicable mandatory provisions of
148 federal and state laws include, but are not limited to, the
149 following:

150 (a) Applicable provisions of the Internal Revenue Code,
151 including, but not limited to, ss. 401(a)(17) and 415 of the
152 Internal Revenue Code.

153 (b) The Uniformed Services Employment and Reemployment
154 Rights Act, chapter 43 of Title 38 U.S.C., relating to military
155 service.

156 (c) Chapter 61, Florida Statutes, including, but not
157 limited to, income deduction orders.

158 (d) Section 112.18, Florida Statutes, concerning
159 presumptions for certain conditions relative to disability.

160 (e) Section 112.181, Florida Statutes, relating to special
161 provisions relative to certain communicable diseases.

162 (f) Section 112.3173, Florida Statutes, relating to
163 forfeiture of retirement benefits.

164 (g) Part III of chapter 112, Florida Statutes, relating to
165 the Code of Ethics for Public Officers and Employees.

166 (h) Part VII of chapter 112, Florida Statutes, the Florida
167 Protection of Public Employee Retirement Benefits Act.

168 (i) Section 112.661, Florida Statutes, relating to

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169 investment policies.

170 (j) Chapter 119, Florida Statutes, relating to public
171 records.

172 (k) Section 175.071, Florida Statutes, relating to the
173 general powers and duties of the board of trustees.

174 (l) Section 175.195, Florida Statutes, relating to false,
175 misleading, or fraudulent statements made to obtain public
176 retirement benefits.

177 (m) Section 175.221, Florida Statutes, relating to lump-
178 sum payment of small retirement income.

179 (n) Section 175.231, Florida Statutes, relating to the
180 presumption that certain diseases of firefighters were suffered
181 in the line of duty.

182 (o) Section 175.241, Florida Statutes, relating to
183 exemption from tax and execution.

184 (p) Subsections 215.47(1)-(8), (10), and (16), Florida
185 Statutes, concerning authorized investments.

186 (q) Section 286.0105, Florida Statutes, relating to
187 notices of meetings and hearings.

188 (r) Section 286.011, Florida Statutes, relating to public
189 meetings.

190 (s) Section 286.012, Florida Statutes, relating to voting
191 requirements.

192 (2) To the extent that any provisions of chapter 23444,
193 Laws of Florida, 1945, as amended, conflict with sections
194 112.60-112.67, Florida Statutes, or to the extent that any
195 provision of chapter 23444, Laws of Florida, 1945, as amended,
196 would result in the loss of tax exempt status of the City of

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197 Orlando Firefighter Pension Fund, the Board of Trustees is
198 hereby delegated the authority to adopt by rule changes to
199 chapter 23444, Laws of Florida, 1945, as amended, in order to
200 comply with said laws, which rules shall have the force of law
201 and shall be considered part of chapter 23444, Laws of Florida,
202 1945, as amended.

203 Section 6. This act is only an enabling act and is
204 contingent upon contractual agreement through the collective
205 bargaining process between the City of Orlando and the
206 respective certified bargaining agent for firefighters employed
207 by the City of Orlando.

208 Section 7. This section shall take effect upon becoming a
209 law; section 1 shall take effect July 1, 2008; section 3 shall
210 be effective retroactive to July 1, 1988; sections 2 and 4 shall
211 be effective retroactive to January 1, 2008; and sections 5 and
212 6 shall take effect July 1, 2008.