

ENROLLED  
CS/HB 1515

2008 Legislature

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; providing  
11          that the act is contingent upon a collective bargaining  
12          agreement; providing retroactive effect; providing  
13          effective dates.

14  
15   Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1.   Section 2 of chapter 23444, Laws of Florida,  
18           1945, as amended by chapters 73-573 and 2000-448, Laws of  
19           Florida, and by City of Orlando Ordinance 33874, enacted June  
20           18, 2001, is amended to read:

21           Section 2.   Employees included.

22           Members of said Fire Department shall be construed as  
23           including all officers and firefighters regularly employed in  
24           said department, and whose employment shall be regular and  
25           continuous and not of a temporary character, provided, however,  
26           the secretaries, stenographers and switchboard operators shall  
27           not be covered by the provisions of this Act. For the purpose of  
28           this Act the term "widow" shall include widower; the term "wife"

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29 shall include "husband"; the term "mother" shall include  
30 "father"; reference to the masculine pronoun shall include the  
31 feminine and vice versa; the term "issue" shall include a  
32 member's natural and adopted children as well as children in  
33 gestation; and the terms "legal guardian" or "guardians of said  
34 issue" shall include a court-appointed guardian of the property  
35 of said issue or a trustee of a trust of which said issue is a  
36 beneficiary. Further provided that members who are DROP  
37 participants will no longer be participants in this fund, nor  
38 eligible for any benefits hereunder.

39 Section 2. Section 9 of chapter 23444, Laws of Florida,  
40 1945, as amended by City of Orlando Ordinance 0801141004,  
41 enacted January 1, 2008, is amended to read:

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

43 Any active member of the fire department who shall become  
44 permanently and totally disabled, if the disability is directly  
45 caused by and attributable to the performance of duty as a  
46 member of the department, shall be entitled to a pension of a  
47 monthly sum of 80 percent of the member's average monthly  
48 salary; provided, however, a member who has completed 40 years  
49 of credited service shall be entitled to receive an additional 2  
50 percent over the 80 percent for each year of credited service in  
51 excess of 40 years of credited service but not to exceed 100  
52 percent ~~money equivalent to that sum of money which said member,~~  
53 ~~whether or not properly qualified, would have been entitled to~~  
54 ~~elect as a monthly pension for twenty five (25) years of service~~  
55 ~~under amended Section 12 of this act.~~ The phrase "permanently  
56 and totally disabled" shall be construed to mean and include the

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57 | loss of one or more limbs, loss of sight in one or both eyes,  
58 | loss of hearing in one or both ears and any other condition  
59 | which renders the member unfit to perform the required duties of  
60 | the member's rank held at the time of impairment. Upon the death  
61 | of the member on said disability pension provided in this  
62 | section, benefits shall be paid as follows:

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

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

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85 | payments.

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

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

92 |

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

107 |       Section 3. Subsection (2) is added to section 19 of  
108 | chapter 23444, Laws of Florida, 1945, as amended by chapter  
109 | 2000-448, Laws of Florida, to read:

110 |       Section 19. Cost of living increase.

111 |       (2) Those persons who are eligible to receive monthly  
112 | retirement benefits upon the death of a firefighter who was

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

125 Section 4. City of Orlando Ordinance 33723, enacted April  
126 16, 2001, relating to tax qualification of the plan under the  
127 Internal Revenue Code, City of Orlando Ordinance 33874, enacted  
128 June 18, 2001, and City of Orlando Ordinance 0801141004, enacted  
129 January 1, 2008, relating to minimum benefits and minimum  
130 standards required by chapter 99-1, Laws of Florida, are hereby  
131 approved, ratified, validated, and confirmed, and shall be  
132 considered part of chapter 23444, Laws of Florida, 1945, as  
133 amended.

134 Section 5. This act is only an enabling act and is  
135 contingent upon contractual agreement through the collective  
136 bargaining process between the City of Orlando and the  
137 respective certified bargaining agent for firefighters employed  
138 by the City of Orlando.

139 Section 6. This section shall take effect upon becoming a  
140 law; section 1 shall take effect July 1, 2008; section 3 shall

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141 | be effective retroactive to July 1, 1988; sections 2 and 4 shall  
142 | be effective retroactive to January 1, 2008; and section 5 shall  
143 | take effect July 1, 2008.