

By Senator Fasano

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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 that
27 received by a firefighter ~~fireman~~ holding the rank of captain.

28 (2) All right, title, and interest in and to said fund,
29 assets, and securities of the fire pension fund collected under

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30 the provisions of chapter 175, Florida Statutes, shall be divided
31 on a pro rata ~~pro-rata~~ basis between the firefighters ~~firemen~~ of
32 the City of Clearwater participating under this act and fund and
33 all other firefighters ~~firemen~~ employed by the City of
34 Clearwater, and said pro rata ~~pro-rata~~ portion of said moneys
35 shall be deposited into this fund.

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

50 (4) If at any time subsequent to the effective date of this
51 act there shall be a total reassessment of all taxable real
52 property and improvements thereon within the corporate limits of
53 the City of Clearwater, then effective commencing with the first
54 taxable year thereafter the millage rate of the tax that the city
55 shall levy, assess, collect, and contribute to the fund shall be
56 automatically reduced and shall remain at the same rate unless
57 subsequently reduced by other reassessments or changed as herein
58 otherwise provided.

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

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

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

85 (8) ~~Sec. 1A. Actuarial review and valuation of~~
86 ~~plan.~~ Actuarial valuations of the fund shall be made at
87 intervals of not more than 2 ~~two (2)~~ years during the first 10

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

100 (9) Beginning with the actuarial valuation made at the end
101 of the 10th ~~tenth (10th)~~ year after the effective date of this
102 act and after each valuation made after that date, the trustees
103 of said fund and the city shall review the valuations to
104 determine if the original 35 ~~thirty-five (35)~~ years of
105 contributions by the city will still be necessary. If the
106 actuarial valuations indicate that a shorter time of funding is
107 necessary to fund the amended benefits of the plan, the city will
108 have the option to either reduce the millage or shorten the
109 number of years that contributions will be made. Should the city
110 elect to do either of the above, and at a later date, it is
111 determined by one of the actuarial valuations that the amount
112 being contributed by the city will not properly fund the benefits
113 provided by the plan, the city shall increase its contributions
114 to the maximum six-tenths ~~(6/10)~~ of one mill, or the adjusted
115 rate thereof pursuant to the procedure set forth in this section
116 ~~hereof~~ because of an overall tax reassessment of property,

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

130 | Section 2. Definitions.--As ~~When~~ used in this act, the term
131 | ~~chapter~~:

132 | (1)(a) ~~The term~~ "City" shall mean the City of Clearwater,
133 | ~~Florida.~~

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

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

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

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

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

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

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

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

184 Section 5. Board of trustees; ~~election, appointment,~~
185 membership, terms of office.--The board of trustees of said fund
186 shall consist of the mayor, who shall be chairperson ~~chairman~~,
187 the chief of the fire department, and three ~~(3)~~ members of the
188 said department either active or retired under said pension plan.
189 The election of members from the department shall be held no
190 later than ~~on~~ the 15th day of June of each year. The persons
191 eligible to vote are, ~~and only~~ members of the fire department ~~of~~
192 ~~the City of Clearwater, Florida,~~ either active or retired and
193 participating under this plan. In the event that no member of the
194 plan is available to stand for election, then a current
195 firefighter of the fire department below the rank of chief who is
196 willing to serve shall be placed on the ballot. In the event that
197 no one is available to stand for election, or in the event that
198 no one is available to participate in the voting, then members of
199 the board will be appointed by the city council from membership
200 of the city council, ~~shall be entitled to vote in such election.~~
201 Members of the board so elected or appointed shall take office on
202 the 1st day of July of each year. Initial members ~~so elected~~
203 shall serve as follows: one for 1 ~~one (1)~~ year, one for 2 ~~two (2)~~

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204 years, and one for 3 ~~three (3)~~ years. The elected or appointed
205 members each year shall serve for a 3-year ~~three (3) year~~ term.
206 Any vacancy on said board, caused by the death, resignation, or
207 dismissal of any of the ~~elected~~ members shall be filled by an
208 election or appointment as above provided.

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

211 (1)~~1.~~ Invest and reinvest the assets of the pension fund of
212 the Fire Department of the City of Clearwater, ~~Florida,~~ in
213 annuity and life insurance contracts of life insurance companies
214 in amounts sufficient to provide, in whole or in part, the
215 benefits to which all of the participants in the pension fund of
216 the fire department shall be entitled under the provisions of
217 this act, and pay the initial and subsequent premiums thereon.

218 (2)~~2.~~ Invest and reinvest the assets of the pension fund of
219 the fire department in:

220 (a)~~a.~~ Time or savings accounts of a national bank, a state
221 bank insured by the Federal Deposit Insurance Corporation, or a
222 savings, building, and loan association insured by the Federal
223 Savings and Loan Insurance Corporation.

224 (b)~~b.~~ Obligations of the United States or obligations
225 guaranteed as to principal and interest by the government of the
226 United States.

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

232 (d)~~d.~~ Obligations of any municipal authority issued

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233 pursuant to the laws of this state; provided, however, that for
234 each of the 5 ~~five~~ years next preceding the date of investment
235 the income of such authority available for fixed charges~~7~~ shall
236 have been not less than 1 1/2 ~~one and one-half~~ times its average
237 annual fixed-charges requirements over the life of its
238 obligations.

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

244 1.~~(1)~~ The corporation is listed on any one or more of the
245 recognized national stock exchanges and holds a rating in one of
246 the three highest classifications by a major rating service;

247 2.~~(2)~~ The corporation has paid cash dividends for a period
248 of 7 ~~seven~~ fiscal years next preceding the date of acquisition;

249 3.~~(3)~~ The corporation fulfills either of the following
250 standards:

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

260 b. The corporation over the period of 7 ~~seven~~ fiscal years
261 immediately preceding purchase must have earned after federal

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

272 4.(4) The board of trustees shall not invest more than 1
273 percent ~~one per cent~~ of its assets in the common stock or capital
274 stock of any one issuing company, nor shall the aggregate
275 investment in any one issuing company exceed 1 percent ~~one per~~
276 ~~cent~~ of the outstanding capital stock of that company; nor shall
277 the aggregate of its investments under this section at cost
278 exceed 60 percent ~~sixty per cent~~ of the fund's assets.

279 (3) The trustees in the performance of their duties are
280 authorized to seek, obtain, and engage independent professional
281 investment counsel and advice and to pay reasonable charges for
282 said services.

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

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291 benefits under the terms of this act.

292 Section 8. Disability and death benefits unconnected with
293 duty.--Members of the fire department with less than 20 ~~twenty~~
294 ~~(20)~~ years of service who ~~shall~~ have become permanently disabled
295 when such disability was unconnected with the performance of his
296 or her duty in the fire department, ~~and not caused by his or her~~
297 own willful ~~wilful~~ intent, ~~shall,~~ upon satisfaction of the board
298 that he or she is so permanently disabled, receive as a pension
299 the sum of 2 1/2 percent ~~2-1/2%~~ of the prevailing wage for the
300 rank he or she holds ~~holds~~ per month per each year of service,
301 including a pro rata share for any part of a year's service. He
302 or she shall also receive a children's benefit of 7 1/2 percent ~~7~~
303 ~~1/2%~~ of the prevailing wage for the rank he or she holds for each
304 of his or her children under the age of 18 ~~eighteen (18)~~ years at
305 the time the member shall be so pensioned; providing, however,
306 that said pension, including children's benefits, shall not
307 exceed 50 percent ~~fifty per cent (50%)~~ of the prevailing wage for
308 the rank the member held when pensioned. All of said sums shall
309 be payable monthly. Upon the death of said member so pensioned,
310 his or her surviving spouse ~~widow~~, provided the two were lawfully
311 married ~~she was his wife~~ at the time the member ~~he~~ was pensioned,
312 shall receive the same pension the member ~~he~~ was receiving at the
313 time of the member's ~~his~~ death, not to exceed 25 percent ~~twenty-~~
314 ~~five percent (25%)~~ of the prevailing wage for the rank the member
315 held when pensioned. Children's benefits of 7 1/2 percent ~~7-1/2%~~
316 of the prevailing wage for the rank held by the member at the
317 time he or she was pensioned for each of his or her children
318 under the age of 18 ~~eighteen (18)~~ years shall be paid to the
319 person or persons having custody of said children, providing that

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320 the children's benefits, together with the surviving spouse's
321 ~~widow's~~ pension, shall not exceed 50 percent ~~fifty per cent (50%)~~
322 of the prevailing wage for the rank the member held when
323 pensioned. In the event that all children are not in the custody
324 of the same person, the children's benefits shall be prorated ~~pre~~
325 ~~rated~~. The benefit provided for a child shall cease upon reaching
326 the age of 18 ~~eighteen (18)~~ years, or upon being married.

327 Section 9. Death benefits.--If any member of the fire
328 department loses ~~shall lose~~ his or her life in the performance of
329 his or her duties, or as a direct result thereof, his or her
330 surviving spouse ~~widow~~ shall receive the sum of 50 percent ~~fifty~~
331 ~~per cent (50%)~~ of the prevailing wage for the rank the member ~~he~~
332 held when he or she died. Children's benefits of 7 1/2 percent ~~7~~
333 ~~1/2%~~ of the prevailing wage for the rank held by the member at
334 the time he or she died for each of his or her children under the
335 age of 18 ~~eighteen (18)~~ years shall be paid to the person or
336 persons having custody of said children, provided that the
337 children's benefit, together with the surviving spouse's ~~widow's~~
338 pension, shall not exceed 60 percent ~~sixty per cent (60%)~~ of the
339 prevailing wage for the rank the member held when pensioned. In
340 the event that all children are not in the custody of the same
341 person, the children's benefits shall be prorated ~~pre-rated~~. The
342 benefit provided for a child shall cease upon reaching the age of
343 18 ~~eighteen (18)~~ years or upon being married.

344 Section 10. Disability benefits.--Any member who becomes
345 ~~shall become~~ permanently disabled and whose, ~~which~~ said
346 disability is directly caused by the performance of his or her
347 duties, shall be entitled to a pension the sum of which shall be
348 60 percent ~~sixty per cent (60%)~~ of the prevailing wage. Upon his

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349 or her death, the rights of his or her surviving spouse ~~widow~~ and
350 children under the age of 18 ~~eighteen (18)~~ years shall be the
351 same as provided for in section 9; provided, however, in order to
352 be entitled to the surviving spouse's ~~widow's~~ benefits, the
353 surviving spouse ~~widow~~ must have been the lawful spouse ~~wife~~ of
354 the deceased at the time he or she was placed on pension. Any
355 condition or impairment of health of a firefighter ~~fireman~~ caused
356 by tuberculosis, hypertension, or heart disease resulting in
357 total or partial disability or death shall be presumed to have
358 been accidental and caused by and suffered in the line of duty
359 unless the contrary is ~~be~~ shown by competent evidence; provided,
360 however, that such firefighter ~~fireman~~ shall have successfully
361 passed a physical examination before entering into such service,
362 which examination failed to reveal any evidence of such
363 condition.

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

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378 Section 12. Retirement at age 65.--Any member now employed
379 reaching the age of 65 ~~sixty-five (65)~~ years shall be retired and
380 shall be entitled to a pension the sum of 60 percent ~~sixty per~~
381 ~~cent (60%)~~ of the prevailing wage of the rank at which he or she
382 retired, providing he or she held that rank for a period of at
383 least 3 ~~three (3)~~ years immediately prior to the retirement, or
384 his or her pension shall be based on the lowest rank he or she
385 has held during the 3 ~~three (3)~~ years immediately preceding
386 retirement. The above part of this section shall not pertain to
387 chiefs, whose age limits are governed by civil service rules.
388 Upon the death of the member receiving a pension under the
389 provisions of this section, his or her surviving spouse ~~widow~~,
390 providing the two were lawfully married ~~she was his lawful wife~~
391 at the time of the member's ~~his~~ retirement, shall receive 30
392 percent ~~per cent (30%)~~ of the prevailing wage of the lowest rank
393 the member held during the 3 ~~three (3)~~ years immediately
394 preceding his or her retirement. Children's benefits of 7 1/2
395 percent ~~7 1/2%~~ of the prevailing wage of the lowest rank held by
396 the member during his or her last 3 ~~three~~ years of service for
397 each of his or her children under the age of 18 ~~eighteen (18)~~
398 years shall be paid to the person or persons having custody of
399 said children, providing that the children's benefits, together
400 with the surviving spouse's ~~widow's~~ pension, shall not exceed 60
401 percent ~~sixty per cent (60%)~~ of the prevailing wage for the rank
402 the member held when pensioned. In the event that all children
403 are not in the custody of the same person, the children's
404 benefits shall be prorated ~~pro-rated~~. The benefits provided for a
405 child shall cease upon ~~his~~ reaching the age of 18 ~~eighteen (18)~~
406 years or upon being married.

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

(1) Any member of the fire department may retire after 20
~~twenty (20)~~ years of active service and shall receive the sum of
50 percent ~~fifty per cent (50%)~~ of the prevailing wage of the
lowest rank he or she held during the 3 ~~three (3)~~ years
immediately preceding his or her retirement. Upon the death of
said retired member, the surviving spouse ~~widow~~, providing the
two were lawfully married ~~she was his lawful wife~~ at the time the
member he was pensioned, shall receive 25 percent ~~twenty-five per~~
~~cent (25%)~~ of the prevailing wage of the lowest rank the member
held during the 3 ~~three (3)~~ years immediately preceding his or
her retirement. Children's benefits of 7 1/2 percent ~~7 1/2%~~ of
the prevailing wage of the lowest rank held by the member during
his or her last 3 ~~three (3)~~ years of service for each of his or
her children under the age of 18 ~~eighteen (18)~~ years shall be
paid to the person or persons having custody of said children,
providing that the children's benefits, together with the
surviving spouse's ~~widow's~~ pension, shall not exceed 50 percent
~~fifty per cent (50%)~~ of the prevailing wage for the rank the
member held when pensioned. In the event that all children are
not in the custody of the same person, the children's benefits
shall be prorated ~~pro-rated~~. The benefits provided for a child
shall cease upon reaching the age of 18 ~~eighteen (18)~~ years or
upon being married.

(2) Each member of the fire department will increase his or
her pension by 2 ~~two~~ percent ~~(2%)~~ of the prevailing wage of the
lowest rank he or she held during the 3 ~~three (3)~~ years
immediately preceding retirement for each year of service in
excess of 20 ~~twenty (20)~~ years, providing that in no case shall

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436 the retirement pension herein provided exceed 60 ~~sixty~~ percent
437 ~~(60%)~~ of the prevailing wage of the lowest rank held by the
438 member during the 3 ~~three~~ ~~(3)~~ years immediately preceding
439 retirement. Upon the death of said member of over 20 years'
440 ~~twenty (20) years~~ service, his or her surviving spouse ~~widow~~,
441 providing the two were lawfully married ~~she was his lawful wife~~
442 at the time the member ~~he~~ retired, shall receive one-half ~~(1/2)~~
443 of the pension the member would have been entitled to receive.
444 Children's benefits of 7 1/2 percent ~~7 1/2%~~ of the prevailing
445 wage for the rank held by the member at the time he or she was
446 pensioned for each of his or her children under the age of 18
447 ~~eighteen (18)~~ years shall be paid to the person or persons having
448 custody of said children, providing that the children's benefits,
449 together with the surviving spouse's ~~widow's~~ pension, shall not
450 exceed the pension the member ~~himself~~ was receiving. In the event
451 that all the children are not in the custody of the same person,
452 the children's benefits shall be prorated ~~pre-rated~~. The benefits
453 provided for a child shall cease upon reaching the age of 18
454 ~~eighteen (18)~~ years ~~of age~~ or upon being married.

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

461 Section 15. Cessation of pension to surviving spouse;
462 continuation of benefits to children.--Any pension being paid to
463 a surviving spouse ~~widow~~ hereunder shall cease upon his or her
464 death or remarriage. No surviving spouse's ~~widow's~~ pension shall

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465 | be paid to any surviving spouse ~~widow~~ unless he or she was the
466 | lawful spouse ~~wife~~ of the deceased member at the time the member
467 | ~~he~~ was placed on pension. This shall not be construed to mean
468 | that the pension provided for each of the children of the
469 | deceased under the age of 18 ~~eighteen (18)~~ years ~~of age~~ shall
470 | cease by virtue of the remarriage of the surviving spouse ~~mother~~,
471 | but shall continue until the child or children ~~shall~~ reach the
472 | age of 18 ~~eighteen (18)~~ years or marry or be legally adopted.

473 | Section 16. Benefits not assignable nor subject to
474 | garnishment.--No pension or other benefits provided for herein
475 | shall be assignable or subject to garnishment for debts or other
476 | legal process.

477 | Section 17. Pension for discharged members.--Members of the
478 | fire department who are eligible and entitled to a pension at the
479 | time charges are preferred against said member for removal from
480 | the fire department shall not be deprived of the pension to which
481 | he or she was entitled. Any member who has ~~shall have~~ served for
482 | 12 ~~Twelve (12)~~ years in the fire department and is ~~who shall be~~
483 | discharged shall be entitled to a retirement pension upon the
484 | basis provided for in section 8 ~~of this act~~.

485 | Section 18. Effect of judgment for damages against
486 | city.--Any judgment received by any member of the fire department
487 | or persons entitled to a pension under this act, against the City
488 | of Clearwater for damages on account of injury or death of a
489 | member of the fire department, shall thereby void all rights to a
490 | pension under this act. This shall not be a bar to a suit for
491 | damages. This section shall not be construed to affect
492 | proceedings under the Workers' Compensation Law ~~Workmen's~~
493 | ~~Compensation Act of the State of Florida~~.

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

496 (1) Every employee of the fire department now under the
497 present pension plan, acts of 1939, shall have 30 ~~thirty (30)~~
498 days to reject the terms of this act, and, in the event of
499 rejection, said member shall file with the chief of said
500 department his or her objections in writing, and in the event of
501 his or her failure to do so, shall be conclusively presumed to
502 accept the terms of this act.

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

510 (3) Notwithstanding the above provision, any employee
511 subject to the terms and provisions of this act may transfer such
512 employee's contributions and interest earnings which have accrued
513 during the period of time that such employee participated in the
514 plan to the City of Clearwater Employees Pension Plan.

515 Section 20. Payments under prior plan.--

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

521 (2) All pensions hereafter granted under the provisions of
522 this plan shall be in accordance with the provisions of this act

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523 [chapter 72-506, Laws of Florida]. However, the total increase in
524 pension payments to any firefighter ~~fireman~~ participating
525 hereunder and commencing to receive retirement benefits after the
526 effective date of this act [chapter 72-506, Laws of Florida]
527 shall be limited to a maximum of 100 ~~one hundred~~ percent ~~(100%)~~
528 of the initial monthly pension payment provided under this plan.
529 In no case shall a pension or any adjustment to a pension be
530 calculated on the compensation of a rank higher than that of a
531 captain. This shall not be a bar to a higher-ranking ~~higher~~
532 ~~ranking~~ officer receiving a pension, but will limit the amount of
533 such pension or adjustment to that of a captain's rank.

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

545 Section 22. Reexamination of pensioners.--Any member of the
546 fire department who has ~~shall have~~ retired on pension due to
547 permanent disability shall be subject to the call of the board
548 for reexamination ~~re-examination~~, and if found able to perform
549 active duty, the board shall have the power to, with the consent
550 of the city manager and the chief of the fire department, compel
551 the return of said member to the department, and said member so

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552 returned shall enjoy the same rights that he or she had at the
553 time he or she was placed upon pension, and in the event the said
554 member so ordered to return shall refuse to comply with the said
555 order within 10 ~~ten (10)~~ days from issuance thereof, he or she
556 shall forfeit his or her rights to his or her pension.

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

579 Section 24. Cessation of benefits to children upon
580 marriage.--Any benefits paid under the provisions of this act to

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581 children shall cease upon the marriage of said child or children
582 or legal adoption of said child or children.

583 Section 25. Determination of credit while laid off or on
584 pension.--If any member of the fire department shall be laid off
585 due to reduction in the force or placed on pension not service-
586 connected and then returned to the service, only the time during
587 which said member was laid off or upon pension shall be deducted
588 in computing the active service referred to in this act. Any
589 member of the department who shall be placed on pension due to
590 injury resulting from the performance of his or her duty, upon
591 returning to the service ~~he~~ shall receive credit only for the
592 active service actually rendered in said department in computing
593 his or her active service.

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

599 Section ~~See~~ 27. City obligated to provide funds from non-
600 ad valorem sources.--Notwithstanding any other limitations and
601 provisions contained in chapters 30658, Laws of Florida, 1955,
602 and 72-506, Laws of Florida, specifically including, but not
603 limited to, the limitation of 35 ~~thirty-five (35)~~ years for the
604 ad valorem tax funding of contributions to the pension fund by
605 the City of Clearwater, it is hereby provided that it shall be
606 the obligation of the City of Clearwater, if the assets on
607 reserve in such pension fund, should, at any time, become
608 insufficient to pay all of the payments and benefits provided for
609 by the pension fund and plan, to contribute and provide funds

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610 from non-ad valorem revenues of the city to said fund in an
611 amount sufficient to pay all such benefits as heretofore have
612 accrued or may heretofore become payable under said laws for so
613 long as any person shall be entitled to same. It is the intent of
614 this section that the city guarantee from non-ad valorem tax
615 revenue sources all benefits which would be payable under the
616 plan at any time to the same extent as if such fund had assets
617 available from member contributions sufficient for that purpose.

618 Section 28. Referendum.--This act shall not become
619 effective until and unless the same be ratified by a majority of
620 the qualified electors of the City of Clearwater, voting in an
621 election called and held for the purpose of ratification or
622 rejection thereof in the manner provided by law for the calling
623 and holding of special elections in said city. In the event of
624 ratification of this act, the same shall become effective
625 immediately upon the official determination of said ratification.
626 The submission of other measures for approval or rejection, at
627 the same special election in which this act is submitted for
628 ratification or rejection, shall in no way be considered to
629 invalidate or render void the special election in which the
630 ratification or rejection of this act is submitted.

631 Section 29. Severability.--If any section, paragraph,
632 phrase, l or sentence contained in this act shall be held
633 inoperative, unconstitutional, l or void by any court of competent
634 jurisdiction, it shall in no way affect the remaining portions of
635 said act.

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