

By Senators Joyner, Crist, Justice, and Storms

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1                   A bill to be entitled  
2           An act relating to the City of Tampa, Hillsborough  
3           County; amending chapter 23559, Laws of Florida, 1945,  
4           as amended, the General Employees' Pension Plan for  
5           the City of Tampa; revising definitions for "Salaries  
6           or Wages," "Employee," and "Military Service Time";  
7           providing a definition for "Limitation Year";  
8           providing that all employee contributions to the  
9           pension fund are mandatory and that the city shall pay  
10          such contributions to the fund on behalf of the  
11          employee; providing non-spouse beneficiaries an option  
12          to rollover death benefits; providing for refund of  
13          employee contributions; revising construction of the  
14          act; revising benefit limits; revising requirements  
15          for distribution of benefits; providing a default  
16          distribution when a member fails to elect a  
17          distribution option; revising direct rollover options;  
18          providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. Subsections (A), (E), and (H) of section 4,  
23           subsection (A) of section 5, section 19, subsections (A), (B),  
24           and (F) of section 24, and sections 25 and 26 of chapter 23559,  
25           Laws of Florida, 1945, as amended, are amended, and subsection  
26           (S) is added to section 4, subsection (C) is added to section  
27           12, and subsection (C) is added to section 14 of that chapter,  
28           to read:

29           Section 4. Definitions.

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30 (A) Salaries or Wages. Salaries or Wages for the purpose of  
31 this act shall be the base amounts earned by the Employee, plus  
32 regular longevity bonuses, overtime, and shift premiums. Salary  
33 or Wages shall also include elective amounts that are excludible  
34 from the Employee's gross income under Section 125 (cafeteria  
35 plan) amounts that are not available to the Employee in cash in  
36 lieu of group health coverage because the Employee is unable to  
37 certify that he or she has other health coverage. Such deemed  
38 Section 125 compensation will be treated as an amount under  
39 Section 125 of the Code only if the Employer does not request or  
40 collect information regarding the Employees' other health  
41 coverage as part of the enrollment for the health plan; 403(b)  
42 (tax-sheltered annuity); 457 (Section 457 plan); and, effective  
43 for Plan Years beginning on and after January 1, 2001, 132(f)(4)  
44 (qualified transportation fringe benefit plan) of the Internal  
45 Revenue Code of 1986, and the regulations thereunder as amended  
46 (the "Code"). Salaries or Wages shall exclude; ~~but exclusive of~~  
47 other premiums, other than shift premiums, allowances, or  
48 special payments, or any casual nonrecurring or unpredictable  
49 bonuses; payments for unused accrued bona fide sick, vacation,  
50 or other leave; payments received by an Employee pursuant to a  
51 nonqualified unfunded deferred salary or wages plan; and  
52 severance pay that is paid after an Employee severs employment  
53 with the City. However, Salaries or Wages, as defined herein,  
54 earned but not paid to the Employee by the Employee's severance  
55 date with the City shall be considered Salary or Wages for Plan  
56 purposes. In addition to other applicable limitations set forth  
57 in the Plan, and notwithstanding any other provision of the Plan  
58 to the contrary, for Plan Years beginning on or after January 1,

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59 1996, the annual Salaries or Wages of each Employee taken into  
60 account under the Plan shall not exceed the annual compensation  
61 limit provided for in Section 401(a)(17) of the Code ~~the Omnibus~~  
62 ~~Budget Reconciliation Act of 1993 (the "OBRA 1993 Annual~~  
63 ~~Compensation Limit")~~. ~~The OBRA 1993 Annual Compensation Limit is~~  
64 ~~\$150,000~~, as adjusted by the Commissioner of the Internal  
65 Revenue Service for increases in the cost-of-living in  
66 accordance with Section 401(a)(17)(B) of the ~~Internal Revenue~~  
67 ~~Code of 1986, as amended (the "Code")~~. The cost-of-living  
68 adjustment in effect for a calendar year applies to any period,  
69 not exceeding 12 months, over which Salaries or Wages are  
70 determined (determination period) beginning in such calendar  
71 year. If a determination period consists of fewer than 12  
72 months, the annual compensation ~~the OBRA 1993 Annual~~  
73 ~~Compensation~~ limit will be multiplied by a fraction, the  
74 numerator of which is the number of months in the determination  
75 period, and the denominator of which is 12. For Plan Years  
76 beginning on or after January 1, 1996, any reference in this  
77 Plan to the limitation under Section 401(a)(17) of the Code  
78 shall mean the OBRA 1993 Annual Compensation Limit set forth in  
79 this provision. The limitation on Salaries or Wages for an  
80 "eligible Employee" shall not be less than the amount which was  
81 allowed to be taken into account hereunder as in effect on July  
82 1, 1993. "Eligible Employee" is an individual who was a  
83 participant in the Plan before the first Plan Year beginning  
84 after December 31, 1995. Commencing for earnings paid the first  
85 pay date after October 1, 2005, all mandatory Employee  
86 Contributions to the Fund shall be picked up and paid by the  
87 City. Such contributions, although designated as Employee

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88 Contributions, shall be paid by the City in lieu of  
89 contributions by the Employee. The contributions so assumed  
90 shall be treated as tax-deferred Employer "pickup" contributions  
91 pursuant to Section 414(h) of the Internal Revenue Code. Members  
92 shall not have the option of receiving the contributed amounts  
93 directly instead of having such contributions paid by the City  
94 to the Fund.

95 (E) Employee. For the purposes of this Act, "employee"  
96 shall mean an employee covered or qualified to be covered under  
97 either Division A or Division B of this Plan. An employee  
98 covered by this Plan shall include all employees whether full  
99 time, part-time or temporary, who have taken the physical  
100 examination required by Section 18. Employees whose Salaries or  
101 Wages are paid pursuant to a federal grant-in-aid program are  
102 included in this Act only when the federal government pays the  
103 employer's contribution. Casual laborers are excluded from this  
104 definition as are employees covered by other City pension plans.  
105 Any individual who is an independent contractor, or who performs  
106 services for the City under an agreement that identifies the  
107 individual as an independent contractor, is excluded from the  
108 Plan even if a governmental agency retroactively reclassifies  
109 such individual as an Employee.

110 (H) Military Service Time. For Members rehired after leave  
111 to provide military service prior to December 12, 1994, in  
112 computing Service allowance for retirement, creditable Service  
113 shall, at the option of the Employee, include any service which  
114 interrupted employment with the Employer, not to exceed a period  
115 of 3 years, in any of the armed services of the United States  
116 during time of war, upon condition that within 90 days from the

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117 date of reinstatement of such Employee now or hereafter serving  
118 in the armed forces, or within 90 days from the effective date  
119 of this act for those Employees already reinstated, such  
120 Employee shall exercise such option by filing written notice  
121 thereof with the Board of Trustees and, if a Division A  
122 employee, shall within the 12 ensuing months pay into the  
123 retirement fund an amount equal to the aggregate contributions  
124 such Employee would have made had such Employee not served in  
125 the armed forces, based upon the Salary or Wages being earned at  
126 the time of entering the armed services, and if any such  
127 Employee shall fail to exercise such option within the time and  
128 in the manner hereinabove prescribed, such period of military  
129 service shall not thereafter be allowed as creditable Service,  
130 but shall not be deemed a break in such Employee's Continuous  
131 Service eligibility period. Members rehired on or after December  
132 12, 1994, ~~Notwithstanding the foregoing, an Employee~~ shall be  
133 credited with service for purposes of vesting and benefit  
134 accrual under the Plan for his or her service in the uniformed  
135 service (as defined in the Uniformed Services Employment and  
136 Reemployment Rights Act of 1994 (the "USERR Act") ~~upon being~~  
137 ~~granted leave by the Employer for such uniformed service~~ and  
138 termination from employment as an Employee with the Employer,  
139 provided that the Employee must return to his or her employment  
140 as an Employee with the Employer within the time periods  
141 prescribed by the USERR Act; and the Employee complies with the  
142 Employee contribution requirements prescribed by the USERR Act.  
143 The maximum service credit for uniformed service shall be 5  
144 years or such other time period as may be prescribed by the  
145 USERR Act. Effective as of the dates reflected in the Heroes

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146 Earnings Assistance and Relief Tax Act ("HEART Act"), the Plan  
147 shall comply with all applicable provisions of the HEART Act.

148 (S) Limitation Year. The limitation year shall be the Plan  
149 Year.

150 Section 5. Contributions. The Pension Fund shall consist of  
151 moneys derived from the following sources:

152 (A) Employee Contributions. Division A Employees.  
153 Commencing for earnings paid, beginning with the first pay date  
154 after January 1, 2006, all Employee contributions to the Fund  
155 shall be mandatory employee contributions and shall be picked up  
156 and paid by the City on behalf of the Member. Such contributions  
157 There shall be made by Employees in an amount equal to a  
158 contribution of 7 percent of all Salaries or Wages of all  
159 Employees participating in this Fund, which shall be deducted  
160 from said Salaries or Wages by the Director of Finance, before  
161 the same are paid, as long as the Employee continues in the  
162 Service of the City of Tampa, regardless of the number of years  
163 of Service with the City. Such contributions, although  
164 designated as Employee contributions, will be paid by the City  
165 in lieu of contributions by the Employee. The contributions so  
166 assumed shall be treated as tax-deferred Employer "pick-up"  
167 contributions pursuant to Section 414(h) of the Code. Members  
168 shall not have the option of receiving the contributed amounts  
169 directly instead of having such contributions paid by the City  
170 to the Fund.

171 Section 12. Death Benefits.

172 (C) In accordance with Section 402(c)(11)(A) of the Code,  
173 for distributions made after December 31, 2006, any non-spouse  
174 beneficiary, as defined in Section 401(a)(9)(E) of the Code,

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175 from Division A or Division B shall have the option to rollover  
176 all or a portion of his or her death benefit via a direct  
177 trustee-to-trustee transfer to an inherited individual  
178 retirement account, as defined in Section 408(d)(3)(c) of the  
179 Code, provided such distribution meets the definition of an  
180 eligible rollover distribution as defined in Section 26 of this  
181 Act.

182 Section 14. Refund of Contributions ~~Contribution~~.

183 (C) Refund of Employee contributions shall be paid in  
184 accordance with Section 26 of this Act.

185 Section 19. Construction. This Act shall be liberally  
186 construed in accordance with general law and the federal tax  
187 code, and if any part or portion thereof be declared invalid, or  
188 the application thereof to any person, circumstance or thing is  
189 declared invalid, the validity of the remainder of this Act  
190 shall not be affected thereby.

191 Section 24. Limitations on Amounts of Benefits.

192 (A) For Plan Years ending after December 31, 2001, benefits  
193 for an Employee under this Plan, when expressed as a benefit  
194 payable annually in the form of a straight life annuity without  
195 regard to the death benefit or any other ancillary benefit,  
196 shall not at any time within the limitation year exceed the  
197 limits provided under Section 415(b) of the Code ~~\$90,000~~.

198 (B)1. The ~~\$90,000~~ limitation set forth in subsection (A)  
199 shall be actuarially reduced in accordance with regulations  
200 prescribed by the Secretary of the Treasury for any retirement  
201 benefit that may begin before an Employee attains age 62, by  
202 adjusting such benefit so that it is equivalent to such a  
203 benefit beginning at age 62. For Plan Years ending before

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204 January 1, 2002, and repealed for Plan Years ending thereafter,  
205 the reduction shall not reduce the ~~\$90,000~~ limitation set forth  
206 in subsection (A) to less than (a) \$75,000 if the benefit begins  
207 at or after age 55, or (b) if the benefit begins before age 55,  
208 the equivalent of the \$75,000 limitation for age 55.

209 2. If any retirement benefit begins after the Employee  
210 attains age 65, the ~~\$90,000~~ limitation set forth in subsection  
211 (A) shall be adjusted (based upon an interest rate assumption of  
212 5 percent) in accordance with regulations prescribed by the  
213 Secretary of the Treasury, by adjusting such benefit so that it  
214 is equivalent to such benefit beginning at age 65.

215 (F) The following is repealed for Plan Limitation Years  
216 beginning after December 31, 1999:

217 1. In the event that any Employee participates in both a  
218 defined benefit plan and a defined contribution plan maintained  
219 by the City, then the sum of the Defined Benefit Plan Fraction  
220 (as defined in Section 415(e) of the Code) and the Defined  
221 Contribution Plan Fraction (as defined in Section 415(e) of the  
222 Code) for any limitation year shall not exceed 1.0.

223 2. In the event that the sum of the Defined Benefit Plan  
224 Fraction and the Defined Contribution Plan Fraction exceeds 1.0,  
225 then the Board of Trustees shall take such actions, applied in a  
226 uniform and nondiscriminatory manner, as will keep the benefits  
227 and annual additions thereto for such Employees from exceeding  
228 these limits. Adjustments shall be made to this Plan before any  
229 adjustments shall be required to any other plans.

230 Section 25. Latest Date of Commencement of Benefits  
231 ~~Required Distributions.~~

232 (A) The distribution of a member's benefit shall be made in



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233 accordance with the following requirements, and shall otherwise  
234 comply with Section 401(a) (9) of the Code and the Regulations  
235 thereunder, as prescribed by the Commissioner in Revenue  
236 Rulings, Notices, and other guidance published in the Internal  
237 Revenue Bulletin, to the extent that said provisions apply to  
238 governmental plans under Section 414(d) of the Code. The  
239 distribution provisions of Section 401(a) (9) of the Code shall  
240 override any distribution options in the Plan inconsistent with  
241 Section 401(a) (9) of the Code:

242 1. Any benefit paid to a member ~~an Employee~~ shall commence  
243 not later than the last to occur of:

244 (a)1. April 1 of the year following the calendar year in  
245 which the member ~~Employee~~ retires; or

246 (b)2. April 1 of the year immediately following the  
247 calendar year in which the member ~~Employee~~ reaches age 70 1/2.

248 2. Distributions of members' benefits will be made in  
249 accordance with Sections 1.401(a) (9)-2. through 1.401(a) (9)-9.  
250 of the Code and such other rules thereunder as may be prescribed  
251 by the Secretary of the Treasury, to the extent that said  
252 provisions apply to governmental plans under Section 414(d) of  
253 the Code.

254 ~~(B) In the case of a benefit payable by reason of an~~  
255 ~~Employee's retirement or other termination of employment, in no~~  
256 ~~event shall payment extend beyond the life or life expectancy of~~  
257 ~~the Employee or the joint lives or life expectancies of the~~  
258 ~~Employee and the Employee's designated beneficiary. In the case~~  
259 ~~of an Employee who is receiving his or her pension benefit as of~~  
260 ~~the date of his or her death, the survivor portion of the~~  
261 ~~Employee's pension benefit shall be paid at least as rapidly as~~

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262 ~~under the method being used prior to the Employee's death.~~

263 3.(C) Notwithstanding anything contained herein to the  
264 contrary, payments under the Plan to a Beneficiary due to a  
265 member's death shall satisfy the incidental death benefit  
266 requirements and all other applicable provisions of Section  
267 401(a)(9)(G) ~~401(a)(9)~~ of the Code, the regulations issued  
268 thereunder ~~(including Section 1.401(a)(9)-2 of the proposed~~  
269 ~~Treasury regulations)~~, and such other rules thereunder as may be  
270 prescribed by the Secretary of the Treasury, including IRS  
271 Notice 2007-7, to the extent that said provisions apply to  
272 governmental plans under Section 414(d) of the Code.

273 Section 26. Direct Rollovers.

274 (A) This section applies to distributions made on or after  
275 January 1, 1993. Notwithstanding any provision of the Plan to  
276 the contrary ~~that would otherwise limit a distributee's (as~~  
277 ~~defined below) election under this section~~, a distributee may  
278 elect, at the time and in the manner prescribed by the  
279 Commissioner of the Internal Revenue Service, to have any  
280 portion of an eligible rollover distribution (as defined below)  
281 paid directly to an eligible retirement plan (as defined below)  
282 specified by the distributee in a direct rollover (as defined  
283 below). If a member fails to elect a distribution option as  
284 provided under Sections 14 and 22 of this Act, then such  
285 member's benefit shall be rolled over to an individual  
286 retirement account designated by the Board of Trustees, as  
287 defined in Section 6.

288 (B) For purposes of this section, the following terms shall  
289 have the following meanings:

290 1. An "eligible rollover distribution" is any distribution

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291 of all or any portion of the balance to the credit of the  
292 distributee, except that an eligible rollover distribution does  
293 not include: any distribution that is one of a series of  
294 substantially equal periodic payments (not less frequently than  
295 annually) made for the life (or life expectancy) of the  
296 distributee or the joint lives (or joint life expectancies) of  
297 the distributee and the distributee's designated beneficiary, or  
298 for a specified period of 10 years or more; any distribution to  
299 the extent such distribution is required under Section 401(a)(9)  
300 of the Code, and the portion of any distribution that is not  
301 includable in gross income (determined without regard to the  
302 exclusion for net unrealized appreciation with respect to  
303 employer securities). Notwithstanding the above, a portion of a  
304 distribution shall not fail to be an "eligible rollover  
305 distribution" merely because the portion consists of after-tax  
306 voluntary Employee contributions that are not includable in  
307 gross income. However, such portion may be transferred only to  
308 an individual retirement account or annuity described in Section  
309 408(a) or (b) of the Code or to a qualified defined contribution  
310 plan described in Section 401(a) or 403(a) of the Code that  
311 agrees to separately account for amounts transferred, including  
312 separately accounting for the portion of such distribution that  
313 is includable in gross income and the portion of such  
314 distribution that is not so includable.

315 2. An "eligible retirement rollover plan" is an individual  
316 retirement account described in Section 408(a) of the Code, an  
317 individual retirement annuity described in Section 408(b) of the  
318 Code, other than an endowment contract, or ~~an annuity plan~~  
319 ~~described in Section 403(a) of the Code,~~ a qualified trust (an

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320 employees' trust) described in Section 401(a) of the Code that  
321 is exempt from tax under Section 501(a) of the Code, an annuity  
322 plan described in Section 403(a) of the Code, an eligible plan  
323 under Section 457(b) of the Code that is maintained by a state,  
324 a political subdivision of a state, or any agency or  
325 instrumentality of a state or political subdivision and that  
326 agrees to separately account for amounts transferred into such  
327 plan from this Plan, and an annuity contract described in  
328 Section 403(b) of the Code that accepts the distributee's  
329 eligible rollover distribution. However, in the case of an  
330 eligible rollover distribution to the surviving spouse, an  
331 eligible retirement plan is an individual retirement account or  
332 individual retirement annuity.

333 3. A "distributee" includes the member or former member ~~an~~  
334 ~~Employee or former employee~~. In addition, the member's  
335 ~~Employee's~~ or former member's ~~employee's~~ surviving spouse and  
336 the member's ~~Employee's~~ or former member's ~~employee's~~ spouse or  
337 former spouse who is the alternate payee under a qualified  
338 domestic relations order, as defined in Section 414(p) of the  
339 Code, are distributees with regard to the interest of the spouse  
340 or former spouse.

341 4. A "direct rollover" is a payment by the Plan to the  
342 eligible retirement plan specified by the distributee.

343 Section 2. This act shall take effect October 1, 2009.