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1 A bill to be entitled
2 An act relating to the City of Tampa, Hillsborough County;
3 amending chapter 23559, Laws of Florida, 1945, as amended;
4 revising the General Employees' Pension Plan for the City
5 of Tampa; revising the definitions of the terms "Salaries
6 or Wages," "Employee," and "Military Service Time";
7 revising application of the term "Actuarial Equivalent";
8 defining the term "Limitation Year"; providing that all
9 employee contributions to the pension fund after a certain
10 date are mandatory and that the city shall pay such
11 contributions to the fund on behalf of the employee;
12 providing certain beneficiaries an option to roll over
13 certain death benefits; providing for a refund of employee
14 contributions; revising construction of the act; allowing
15 DROP members the opportunity to elect an investment
16 option, as determined by the board of trustees, to be
17 applied to the participant's account for the plan year
18 entering the DROP program and for each subsequent plan
19 year; revising benefit limitations; revising requirements
20 for distribution of benefits; providing a default
21 distribution when a member fails to elect a distribution
22 option; revising direct rollover options; revising the
23 definitions of the terms "eligible rollover distribution,"
24 "eligible rollover plan," and "distributee"; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
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29 Section 1. Subsections (A), (E), (H), and (P) of section
30 4, subsection (A) of section 5, section 19, subsection (D) of
31 section 22, subsections (A), (B), (D), (E), and (F) of section
32 24, and sections 25 and 26 of chapter 23559, Laws of Florida,
33 1945, as amended, are amended, and subsection (S) is added to
34 section 4, subsection (C) is added to section 12, and subsection
35 (C) is added to section 14 of that chapter, to read:

36 Section 4. Definitions.

37 (A) Salaries or Wages. Salaries or Wages for the purpose
38 of this Act shall be the base amounts earned by the Employee,
39 plus regular longevity bonuses, overtime, and shift premiums.
40 Salary or Wages shall also include elective amounts that are
41 excludible from the Employee's gross income under Sections 125
42 (including amounts that are not available to the Employee in
43 cash in lieu of group health coverage because the Employee is
44 unable to certify that he or she has other health coverage, but
45 only if the Employer does not request or collect information
46 regarding the Employee's other health coverage as part of the
47 enrollment for the health plan); 403(b) (tax-sheltered annuity);
48 457 (Section 457 plan); and 132(f) (4) of the Internal Revenue
49 Code of 1986, as amended, and the regulations thereunder (the
50 "Code"). Salaries or Wages shall exclude, but exclusive of other
51 premiums, other than shift premiums, allowances, or special
52 payments, or any casual nonrecurring or unpredictable bonuses;
53 payments for unused accrued bona fide sick, vacation, or other
54 leave; payments received by an Employee pursuant to a
55 nonqualified unfunded deferred salary or wages plan; and
56 severance pay that is paid after an Employee severs employment

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57 with the City. However, Salaries or Wages, as defined herein,
58 earned but not paid to the Employee by the Employee's severance
59 date with the City shall be considered Salary or Wages for Plan
60 purposes. In addition to other applicable limitations set forth
61 in the Plan, and notwithstanding any other provision of the Plan
62 to the contrary, for Plan Years beginning on or after January 1,
63 1996, the annual Salaries or Wages of each Employee taken into
64 account under the Plan shall not exceed the annual compensation
65 limit provided for in Section 401(a)(17) of the Code ~~the Omnibus~~
66 ~~Budget Reconciliation Act of 1993 (the "OBRA 1993 Annual~~
67 ~~Compensation Limit"). The OBRA 1993 Annual Compensation Limit is~~
68 ~~\$150,000, as adjusted by the Commissioner of the Internal~~
69 ~~Revenue Service for increases in the cost-of-living in~~
70 ~~accordance with Section 401(a)(17)(B) of the Internal Revenue~~
71 ~~Code of 1986, as amended (the "Code").~~ The cost-of-living
72 adjustment in effect for a calendar year applies to any period,
73 not exceeding 12 months, over which Salaries or Wages are
74 determined (determination period) beginning in such calendar
75 year. If a determination period consists of fewer than 12
76 months, the ~~OBRA 1993~~ Annual Compensation Limit will be
77 multiplied by a fraction, the numerator of which is the number
78 of months in the determination period, and the denominator of
79 which is 12. ~~For Plan Years beginning on or after January 1,~~
80 ~~1996, any reference in this Plan to the limitation under Section~~
81 ~~401(a)(17) of the Code shall mean the OBRA 1993 Annual~~
82 ~~Compensation Limit set forth in this provision.~~ The limitation
83 on Salaries or Wages for an "eligible Employee" shall not be
84 less than the amount which was allowed to be taken into account

85 hereunder as in effect on July 1, 1993. "Eligible Employee" is
86 an individual who was a participant in the Plan before the first
87 Plan Year beginning after December 31, 1995. ~~Commencing for~~
88 ~~earnings paid the first pay date after October 1, 2005, all~~
89 ~~mandatory Employee Contributions to the Fund shall be picked up~~
90 ~~and paid by the City. Such contributions, although designated as~~
91 ~~Employee Contributions, shall be paid by the City in lieu of~~
92 ~~contributions by the Employee. The contributions so assumed~~
93 ~~shall be treated as tax-deferred Employer "pickup" contributions~~
94 ~~pursuant to Section 414(h) of the Internal Revenue Code. Members~~
95 ~~shall not have the option of receiving the contributed amounts~~
96 ~~directly instead of having such contributions paid by the City~~
97 ~~to the Fund.~~

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

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113 (H) Military Service Time. For members rehired after
114 leave to provide military service prior to December 12, 1994, in
115 computing Service allowance for retirement, creditable Service
116 shall, at the option of the Employee, include any service which
117 interrupted employment with the Employer, not to exceed a period
118 of 3 years, in any of the armed services of the United States
119 during time of war, upon condition that within 90 days from the
120 date of reinstatement of such Employee now or hereafter serving
121 in the armed forces, or within 90 days from the effective date
122 of this Act for those Employees already reinstated, such
123 Employee shall exercise such option by filing written notice
124 thereof with the Board of Trustees and, if a Division A
125 Employee, shall within the 12 ensuing months pay into the
126 retirement fund an amount equal to the aggregate contributions
127 such Employee would have made had such Employee not served in
128 the armed forces, based upon the Salary or Wages being earned at
129 the time of entering the armed services, and if any such
130 Employee shall fail to exercise such option within the time and
131 in the manner hereinabove prescribed, such period of military
132 service shall not thereafter be allowed as creditable Service,
133 but shall not be deemed a break in such Employee's Continuous
134 Service eligibility period. Members rehired on or after December
135 12, 1994, ~~Notwithstanding the foregoing, an Employee shall be~~
136 credited with service for purposes of vesting and benefit
137 accrual under the Plan for his or her service in the uniformed
138 service (as defined in the Uniformed Services Employment and
139 Reemployment Rights Act of 1994, known as ~~the "USERR Act"~~) upon
140 ~~being granted leave by the Employer for such uniformed service~~

141 ~~and~~ termination from employment as an Employee with the
 142 Employer, provided that the Employee must return to his or her
 143 employment as an Employee with the Employer within the time
 144 periods prescribed by the USERR Act, and must comply the
 145 ~~Employee complies~~ with the Employee contribution requirements
 146 prescribed by the USERR Act. The maximum service credit for
 147 uniformed service shall be 5 years or such other time period as
 148 may be prescribed by the USERR Act. Effective as of the dates
 149 reflected in the Heroes Earnings Assistance and Relief Tax Act
 150 ("HEART Act"), the Plan must comply with all applicable
 151 provisions of the HEART Act.

152 (P) Actuarial Equivalent. The Actuarial Equivalent of an
 153 Employee's Accrued Pension shall be determined by basing
 154 mortality on the 1983 Group Annuity Mortality Table for Males
 155 with female ages set back 6 years and post-disablement mortality
 156 upon 80 percent of the 1965 Railroad Board Ultimate Mortality
 157 Table, or such other mortality tables as are in compliance with
 158 the Code. This subsection does not apply to Plan Limitation
 159 Years beginning after December 31, 2008.

160 (S) Limitation Year. The limitation year shall be the
 161 Plan Year.

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

164 (A) Employee Contributions. Division A Employees.
 165 Commencing for earnings paid beginning with the first pay date
 166 after January 1, 2005, all Employee contributions to the Fund
 167 shall be mandatory Employee contributions and shall be picked up
 168 and paid by the City on behalf of the member. Such contributions

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169 shall be made by Employees in an amount equal to ~~There shall be~~
170 ~~a contribution of 7 percent of all Salaries or Wages of all~~
171 ~~Employees participating in this Fund, which shall be deducted~~
172 ~~from said Salaries or Wages by the Director of Finance, before~~
173 ~~the same are paid, as long as the Employee continues in the~~
174 ~~Service of the City of Tampa, regardless of the number of years~~
175 ~~of Service with the City. Such contributions, although~~
176 ~~designated as Employee contributions, shall be paid by the City~~
177 ~~in lieu of contributions by the Employee. The contributions so~~
178 ~~assumed shall be treated as tax-deferred Employer "pick-up"~~
179 ~~contributions pursuant to Section 414(h) of the Code. Members~~
180 ~~shall not have the option of receiving the contributed amounts~~
181 ~~directly instead of having such contributions paid by the City~~
182 ~~to the Fund.~~

183 Section 12. Death Benefits.

184 (C) When the designated beneficiary, as defined in Section
185 401(a)(9)(E) of the Code, is not the Employee's spouse
186 (including, without limitation, a child, parent, or sibling),
187 distributions made after December 31, 2006, from Division A and
188 Division B shall be made in accordance with Section 402(c)(11)
189 of the Code, and such designated beneficiary shall have the
190 option to roll over all or a portion of his or her death benefit
191 via a direct trustee-to-trustee transfer to an inherited
192 individual retirement account, as defined in Section
193 408(d)(3)(c) of the Code, provided such distribution meets the
194 definition of an eligible rollover distribution as defined in
195 Section 26 of this Act.

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

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

199 Section 19. Construction. This Act shall be liberally
 200 construed in accordance with general law and the federal tax
 201 code, and if any part or portion thereof be declared invalid, or
 202 the application thereof to any person, circumstance, or thing is
 203 declared invalid, the validity of the remainder of this Act
 204 shall not be affected thereby.

205 Section 22. Deferred Retirement Option Program.
 206 Notwithstanding any other provisions of this Act, and subject to
 207 the provisions of this section, the Deferred Retirement Option
 208 Program, hereinafter referred to as the DROP, is an option under
 209 which an eligible member may elect, commencing on October 1,
 210 1999, to have the member's pension benefits calculated as of a
 211 certain date prior to retirement, and accumulate benefits plus
 212 the investment return pursuant to this section during the DROP
 213 calculation period. Participation in the DROP does not guarantee
 214 employment for the DROP calculation period, as defined in this
 215 section.

216 D. Interest and administrative costs. Interest shall
 217 accumulate annually ~~at a rate reflecting the Fund's net~~
 218 ~~investment performance~~, whether positive or negative, during the
 219 DROP calculation period, less the cost of administering the
 220 DROP, all of which shall be determined by the Board of Trustees.
 221 A DROP participant shall have the opportunity to elect, as
 222 provided in this subsection, an investment option to be applied
 223 to such DROP participant's account for the Plan Year when
 224 entering the DROP and for each subsequent Plan Year. In such

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225 election, the DROP participant shall choose to have interest
226 accumulate annually, whether positive or negative, at either (i)
227 a rate reflecting the Fund's net investment performance, as
228 determined by the Board of Trustees, or (ii) a rate reflective
229 of a low-risk variable rate selected annually by the Board of
230 Trustees in its sole discretion. Each election must be made at
231 such time, on such forms, and in such manner as the Board of
232 Trustees may determine in its sole discretion. If a DROP
233 participant fails to make a valid election upon entering the
234 DROP, the Fund interest rate shall be applied as provided in (i)
235 herein. If a DROP participant fails to make a valid election in
236 a subsequent Plan Year, the election for the then-current Plan
237 Year shall be applied.

238 Section 24. Limitations on Amounts of Benefits.

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

245 (B)1. The ~~\$90,000~~ limitation set forth in subsection (A)
246 shall be actuarially reduced in accordance with regulations
247 prescribed by the Secretary of the Treasury for any retirement
248 benefit that may begin before an Employee attains age 62, by
249 adjusting such benefit so that it is equivalent to such a
250 benefit beginning at age 62. For Plan Years ending before
251 January 1, 2002, and repealed for Plan Years ending thereafter,
252 the reduction shall not reduce the ~~\$90,000~~ limitation set forth

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253 in subsection (A) to less than (a) \$75,000 if the benefit begins
254 at or after age 55, or (b) if the benefit begins before age 55,
255 the equivalent of the \$75,000 limitation for age 55.

256 2. If any retirement benefit begins after the Employee
257 attains age 65, the ~~\$90,000~~ limitation set forth in subsection
258 (A) shall be adjusted (based upon an interest rate assumption of
259 5 percent) in accordance with regulations prescribed by the
260 Secretary of the Treasury, by adjusting such benefit so that it
261 is equivalent to such benefit beginning at age 65.

262 (D) In accordance with Section 415(b)(5) of the Code, the
263 ~~\$90,000~~ limitation in subsection (A), and the limitation in
264 subsection (C), shall be multiplied by a fraction (not in excess
265 of 1), the numerator of which is the number of the Employee's
266 years of Service in the Plan (in the case of the ~~\$90,000~~
267 limitation set forth in subsection (A)) or the number of the
268 Employee's years of Service (in the case of the limitation set
269 forth in subsection (C)) and the denominator of which, in either
270 case, is 10.

271 (E) As of January 1 of each calendar year, the ~~\$90,000~~
272 limitation set forth in subsection (A) shall be adjusted as and
273 if permitted by the Secretary of the Treasury, and any such
274 adjusted limitation shall become effective as the maximum dollar
275 limitation under the Plan for that calendar year. The maximum
276 dollar limitation for a calendar year, as so adjusted, shall
277 apply to limitation years ending with or within such calendar
278 year.

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

281 1. In the event that any Employee participates in both a
 282 defined benefit plan and a defined contribution plan maintained
 283 by the City, then the sum of the Defined Benefit Plan Fraction
 284 (as defined in Section 415(e) of the Code) and the Defined
 285 Contribution Plan Fraction (as defined in Section 415(e) of the
 286 Code) for any limitation year shall not exceed 1.0.

287 2. In the event that the sum of the Defined Benefit Plan
 288 Fraction and the Defined Contribution Plan Fraction exceeds 1.0,
 289 then the Board of Trustees shall take such actions, applied in a
 290 uniform and nondiscriminatory manner, as will keep the benefits
 291 and annual additions thereto for such Employees from exceeding
 292 these limits. Adjustments shall be made to this Plan before any
 293 adjustments shall be required to any other plans.

294 Section 25. Latest Date of Commencement of Benefits
 295 Required Distributions. The distribution of a member's benefit
 296 shall be made in accordance with the following requirements, and
 297 shall otherwise comply with Section 401(a)(9) of the Code and
 298 the regulations thereunder, as prescribed by the Commissioner in
 299 Revenue Rulings, Notices, and other guidance published in the
 300 Internal Revenue Bulletin, to the extent that said provisions
 301 apply to governmental plans under Section 414(d) of the Code.
 302 The distribution provisions of Section 401(a)(9) of the Code
 303 shall override any distribution options in the Plan inconsistent
 304 with Section 401(a)(9) of the Code:

305 (A) Any benefit paid to a member ~~an Employee~~ shall
 306 commence not later than the last to occur of:

307 1. April 1 of the year following the calendar year in
 308 which the member ~~Employee~~ retires; or

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309 2. April 1 of the year immediately following the calendar
310 year in which the member ~~Employee~~ reaches age 70 1/2.

311 (B) Distributions of members' benefits will be made in
312 accordance with Sections 1.401(a)(9)-2. through 1.401(a)(9)-9.
313 of the Code and such other rules thereunder as may be prescribed
314 by the Secretary of the Treasury, to the extent that said
315 provisions apply to governmental plans under Section 414(d) of
316 the Code.

317 ~~(B) In the case of a benefit payable by reason of an~~
318 ~~Employee's retirement or other termination of employment, in no~~
319 ~~event shall payment extend beyond the life or life expectancy of~~
320 ~~the Employee or the joint lives or life expectancies of the~~
321 ~~Employee and the Employee's designated beneficiary. In the case~~
322 ~~of an Employee who is receiving his or her pension benefit as of~~
323 ~~the date of his or her death, the survivor portion of the~~
324 ~~Employee's pension benefit shall be paid at least as rapidly as~~
325 ~~under the method being used prior to the Employee's death.~~

326 (C) Notwithstanding anything contained herein to the
327 contrary, payments under the Plan to a Beneficiary due to a
328 member's death shall satisfy the incidental death benefit
329 requirements and all other applicable provisions of Section
330 401(a)(9)(G) of the Code, the regulations issued thereunder
331 ~~(including Section 1.401(a)(9)-2 of the proposed Treasury~~
332 ~~regulations)~~, and such other rules thereunder as may be
333 prescribed by the Secretary of the Treasury, including IRS
334 Notice 2007-7, to the extent that said provisions apply to
335 governmental plans under Section 414(d) of the Code.

336 Section 26. Direct Rollovers.

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337 (A) This section applies to distributions made on or after
338 January 1, 1993. Notwithstanding any provision of the Plan to
339 the contrary ~~that would otherwise limit a distributee's (as~~
340 ~~defined below) election under this section,~~ a distributee may
341 elect, at the time and in the manner prescribed by the
342 Commissioner of the Internal Revenue Service, to have any
343 portion of an eligible rollover distribution (as defined below)
344 paid directly to an eligible retirement rollover plan (as
345 defined below) specified by the distributee in a direct rollover
346 (as defined below). If a member fails to elect a distribution
347 option as provided under Sections 14 and 22 of this Act, then
348 such member's benefit shall be rolled over to an individual
349 retirement account designated by the Board of Trustees, as
350 defined in Section 6.

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

353 1. An "eligible rollover distribution" is any distribution
354 of all or any portion of the balance to the credit of the
355 distributee, except that an eligible rollover distribution does
356 not include: any distribution that is one of a series of
357 substantially equal periodic payments (not less frequently than
358 annually) made for the life (or life expectancy) of the
359 distributee or the joint lives (or joint life expectancies) of
360 the distributee and the distributee's designated beneficiary, or
361 for a specified period of 10 years or more; any distribution to
362 the extent such distribution is required under Section 401(a)(9)
363 of the Code;7 and the portion of any distribution that is not
364 includable in gross income (determined without regard to the

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365 exclusion for net unrealized appreciation with respect to
366 employer securities). Notwithstanding the above, a portion of a
367 distribution shall not fail to be an "eligible rollover
368 distribution" merely because the portion consists of after-tax
369 voluntary Employee contributions that are not includable in
370 gross income. However, such portion may be transferred only to
371 an individual retirement account or annuity described in Section
372 408(a) or (b) of the Code or to a qualified defined contribution
373 plan described in Section 401(a) or 403(a) of the Code that
374 agrees to separately account for amounts transferred, including
375 separately accounting for the portion of such distribution that
376 is includable in gross income and the portion of such
377 distribution that is not so includable.

378 2. An "eligible retirement rollover plan" is an individual
379 retirement account described in Section 408(a) of the Code, an
380 individual retirement annuity described in Section 408(b) of the
381 Code, other than an endowment contract; ~~an annuity plan~~
382 ~~described in Section 403(a) of the Code, or~~ a qualified trust
383 (an employees' trust) described in Section 401(a) of the Code
384 that is exempt from tax under Section 501(a) of the Code; an
385 annuity plan described in Section 403(a) of the Code; an
386 eligible plan under Section 457(b) of the Code that is
387 maintained by a state, a political subdivision of a state, or
388 any agency or instrumentality of a state or political
389 subdivision and that agrees to separately account for amounts
390 transferred into such plan from this Plan; or an annuity
391 contract described in Section 403(b) of the Code that accepts
392 the distributee's eligible rollover distribution. However, in

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393 | the case of an eligible rollover distribution to the surviving
394 | spouse, an eligible retirement rollover plan is an individual
395 | retirement account or individual retirement annuity.

396 | 3. A "distributee" includes the member or former member ~~an~~
397 | ~~Employee or former employee~~. In addition, the member's
398 | ~~Employee's~~ or former member's ~~employee's~~ surviving spouse and
399 | the member's ~~Employee's~~ or former member's ~~employee's~~ spouse or
400 | former spouse who is the alternate payee under a qualified
401 | domestic relations order, as defined in Section 414(p) of the
402 | Code, are distributees with regard to the interest of the spouse
403 | or former spouse.

404 | 4. A "direct rollover" is a payment by the Plan to the
405 | eligible retirement plan specified by the distributee.

406 | Section 2. This act shall take effect October 1, 2010.