

1 A bill to be entitled
2 An act relating to the City Pension Fund for Firefighters
3 and Police Officers in the City of Tampa, Hillsborough
4 County; authorizing the City of Tampa to enter into a
5 supplemental contract with certain firefighters and police
6 officers to comply with chapter 2009-97, Laws of Florida;
7 revising the manner in which elective trustees are
8 elected; increasing the maximum length of time prior to
9 term commencement in which to conduct trustee elections;
10 allowing the board to retain the services of more than one
11 nationally recognized professional investment counselor;
12 increasing the investment cap on foreign securities;
13 providing that the investment cap on foreign securities
14 may not be revised, amended, increased, or repealed except
15 as provided by general law; allowing retired members to
16 elect to receive a reduced retirement benefit in order to
17 provide a surviving spouse benefit under certain
18 circumstances; allowing members to purchase up to an
19 additional 5 years of credited service based upon prior
20 service as a full-time certified firefighter or certified
21 police officer or for military service in the Armed Forces
22 of the United States subject to certain conditions;
23 allowing DROP participants upon entering DROP and annually
24 thereafter to elect an option for accruing annual interest
25 at a low-risk variable rate selected annually by the board
26 of trustees, in its sole discretion, in lieu of a rate
27 reflecting the fund's net investment performance, as
28 determined by the board of trustees; prohibiting members

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29 from selecting certain pension contract changes and
30 rejecting others; confirming in part the City of Tampa
31 Firefighters and Police Officers Pension Contract;
32 providing for severability; providing an effective date.
33

34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. The City of Tampa is authorized and empowered
37 to enter into a supplemental contract with each firefighter or
38 police officer who was an active member of the City Pension Fund
39 for Firefighters and Police Officers in the City of Tampa on or
40 after the date this act becomes a law, or each firefighter or
41 police officer who hereafter enters into a pension contract with
42 the City, to comply with chapter 2009-97, Laws of Florida.

43 Section 2. Section 5(C), Section 6, Section 9(C), Section
44 17, and Section 26(D) of the City of Tampa Firefighters and
45 Police Officers Pension Contract as prescribed by Section 28-17
46 of the City of Tampa Code [Ordinance No. 4746-A, enacted
47 September 30, 1969], as amended by Section 28-19 of the City of
48 Tampa Code [Ordinance No. 6038-A, enacted September 17, 1974],
49 pursuant to chapter 74-613, Laws of Florida, as further amended
50 by Ordinance No. 89-314, enacted December 21, 1989, and
51 approved, ratified, validated, and confirmed by chapter 90-391,
52 Laws of Florida, as further amended by chapter 92-231, Laws of
53 Florida, chapter 94-463, Laws of Florida, chapter 98-515, Laws
54 of Florida, chapter 2000-485, Laws of Florida, Ordinance No.
55 2001-133, enacted July 3, 2001, chapter 2001-288, Laws of
56 Florida, chapter 2002-369, Laws of Florida, Ordinance No. 2003-

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57 22, enacted January 23, 2003, chapter 2004-427, Laws of Florida,
 58 and chapter 2007-304, Laws of Florida, are amended to read:

59 SECTION 5. The general administration and responsibility
 60 for the proper operation of the pension system and for making
 61 effective the provisions of this Act are hereby vested in a
 62 board consisting of nine persons, as follows:

63 (1) Three members of the City Administration other than
 64 firefighters or police officers to be appointed as hereinafter
 65 provided;

66 (2) Three members of the Fire Department to be elected as
 67 hereinafter provided; and

68 (3) Three members of the Police Department to be elected
 69 as hereinafter provided.

70 (C) The elective trustees shall be elected in the following
 71 manner, to wit: by per capita vote of all members of each of said
 72 respective departments who come within the purview of this Act,
 73 both active and retired, at elections ~~meetings~~ to be held at
 74 places designated by the Board, at which elections ~~meetings~~ all
 75 qualified members entitled to vote shall be notified in person or
 76 by mail ten days in advance of said election ~~meeting~~. The
 77 candidate receiving the majority of votes for each office shall
 78 be declared elected and shall take office immediately upon
 79 commencement of the term of office for which elected or as soon
 80 thereafter as he shall qualify therefor. An election shall be
 81 held each year not more than sixty (60) ~~thirty (30)~~ and not less
 82 than ten (10) days prior to the commencement of the terms for
 83 which trustees are to be elected in that year. The Board of
 84 Trustees shall meet, organize, and elect one trustee as chairman,

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85 one trustee as vice chairman, and one trustee as secretary within
86 ten days after any trustees are elected and duly qualified.

87 SECTION 6. Money shall be withdrawn from the Pension Fund
88 created by this Act only upon warrants executed by a majority of
89 the Board of Trustees. Monies needed for the meeting of the
90 current obligations of said fund may be deposited in a
91 depository recognized by law for the deposit of funds of the
92 State of Florida and upon the posting of similar security for
93 that required for state deposits. The Board shall have exclusive
94 charge of the investment of any surplus in said fund not needed
95 for the current obligations thereof; and said funds shall be
96 managed by said Board and shall be invested by said Board in
97 accordance with the following:

98 (1) That the Board shall retain the services of one or more
99 ~~a~~ nationally recognized professional investment counselors
100 ~~counsel~~.

101 (2) That not less than once every six (6) months a written
102 opinion shall be obtained from the investment counselor or
103 counselors ~~counsel~~ as to the overall condition and composition of
104 the investment portfolio.

105 (3) That the portfolio, representing the principal or
106 surplus funds of the Pension Fund may be invested in the
107 following securities or other property, real or personal,
108 including, but without being limited to, bonds, notes, or other
109 evidences of indebtedness issued, or assumed or guaranteed in
110 whole or in part by the United States or any of its agencies or
111 instrumentalities; or by any foreign government or political
112 subdivisions or agencies thereof; or by the State of Florida, or

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113 | by any county, city, school district, municipal corporation, or
 114 | other political subdivision of the State of Florida, both general
 115 | and revenue obligations; in mortgages and other interests in
 116 | realty; or in such corporation bonds, notes, or other evidences
 117 | of indebtedness, and corporation stocks including common and
 118 | preferred stocks, of any corporation created or existing under
 119 | the laws of the United States or any of the states of the United
 120 | States, or of any foreign government or political subdivisions or
 121 | agencies thereof, provided that in making each and all of such
 122 | investments the Board of Trustees shall exercise the judgment and
 123 | care under the circumstances then prevailing which men of
 124 | ordinary prudence, discretion, and intelligence exercise in the
 125 | management of their own affairs, not in regard to speculation but
 126 | in regard to the permanent disposition of their funds,
 127 | considering the probable income therefrom as well as probable
 128 | safety of their capital; provided, however, that not more than
 129 | sixty-five per centum (65%) of said fund, based on the total book
 130 | value of all investments held, shall be invested at any given
 131 | time in common stocks, and that not more than five per centum
 132 | (5%) of said fund shall be invested at any given time in
 133 | preferred and common, or either, stock of any one corporation
 134 | and its affiliates and that not more than twenty-five per centum
 135 | (25%) ~~ten per centum (10%)~~ of said fund, based on the total book
 136 | value of all investments held, shall be invested at any given time
 137 | in the bonds, notes or other evidences of indebtedness of any
 138 | foreign government or political subdivisions or agencies thereof
 139 | or corporations created or existing under the laws thereof. The
 140 | investment cap on foreign securities may not be revised,

141 amended, increased, or repealed except as provided by general
 142 law.

143 SECTION 9. To the widow or widower (until death or
 144 remarriage) and child or children (under the age of eighteen
 145 (18) years), until death or marriage before reaching the age of
 146 eighteen (18) years, of any member who dies from causes not
 147 attributed to his active duties in the departments, provided,
 148 however, that such member shall have been a member of such
 149 department for ten (10) years prior to the date of his death,
 150 the Trustees shall authorize and direct payment in equal monthly
 151 installments as follows:

152 (C) (1) The widow or widower of a member who dies while
 153 receiving a retirement pension shall receive sixty-five per
 154 centum (65%) of the pension which the member was receiving;
 155 provided, however, that no pension shall be allowed to any widow
 156 or widower unless she or he was married to the member prior to
 157 the date of retirement of the member, except as provided in
 158 paragraph (2). For the widow or widower of any member of this
 159 Pension Fund who prior to October 16, 1992 was a member of
 160 Division B of the General Employees Pension Plan as established
 161 by Chapter 81-497, Laws of Florida, as amended, upon the
 162 reaching social security normal retirement age, except as
 163 provided in Section 28(C) of this Contract, the benefit paid to
 164 the widow or widower shall be reduced by an amount equal to the
 165 actual social security benefit earned by the member for
 166 employment as a firefighter or police officer for the City to
 167 the extent that such employment is considered to be creditable
 168 service under this Fund; provided, however, that if the widow or

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169 widower does not receive the member's accrued social security
170 benefit, there shall be no reduction in benefits paid to such
171 widow or widower. The effect of such reduction shall be that the
172 sum of the benefit paid herein and said social security benefit
173 shall be equal to the amount of the benefit otherwise payable
174 herein. The widow or widower of each such member shall, upon
175 demand by the Board, authorize the Social Security
176 Administration to release any information necessary to calculate
177 such reduction. The Board shall not make any payment for the
178 benefit payable herein for any period during which such widow or
179 widower willfully fails or refuses to authorize the release of
180 such information in the manner and within the time prescribed by
181 rules adopted by the Board.

182 (2) (a) Members (i) who have been retired for less than
183 forty (40) years as of the effective date of this act, (ii) who
184 retired or entered DROP prior to October 1, 2002, and (iii) who
185 married or remarried after the date of the member's retirement
186 may elect prospectively to receive a voluntarily reduced
187 retirement benefit payable to the widow or widower. The amount
188 of the widow or widower's benefit will be based on the actuarial
189 equivalence calculated by the Fund's actuary, and such benefit
190 shall not result in any additional cost to the Fund or to the
191 plan sponsor than would have been incurred if the member had not
192 elected such benefit under this paragraph. Said actuarial
193 calculation shall be paid for by the retired member.

194 (b) The election under subparagraph (a) is available only
195 if (i) the spouse is not more than twenty (20) years younger
196 than the married or remarried member, (ii) the marriage or

197 remarriage occurred at least three (3) years prior to the
 198 member's said election, and (iii) the electing member is
 199 restricted to exercising this provision for a maximum of two
 200 remarriages after retirement.

201 SECTION 17. COMPUTATION OF PENSION SERVICES AND PURCHASE
 202 OF PAST CREDITED SERVICE.

203 (A) In computing service allowance, creditable service
 204 shall include all service or employment of the member in the
 205 Fire or Police Department, either continuous or interrupted,
 206 provided, however, that any leave of absence without pay shall
 207 not be included. Credited service shall include credit for up to
 208 five (5) years of the time spent in the military service of the
 209 Armed Forces of the United States if the member is in the active
 210 employ of the City of Tampa immediately prior to such service
 211 and leaves a permanent, full-time position as a firefighter or
 212 police officer with the City of Tampa for the purpose of
 213 voluntary or involuntary service in the Armed Forces of the
 214 United States. The member must be entitled to re-employment
 215 under the provisions of the Uniformed Services Employment and
 216 Re-Employment Rights Act (USERRA). In order to be eligible for
 217 the benefits of this section, a member must return to employment
 218 as a firefighter or a police officer of the City of Tampa within
 219 one (1) year from the date of release of such active service.
 220 Pension contributions shall not be required for military service
 221 as described in this section, unless permitted by the Florida
 222 Statutes. The provision of this section shall not apply to
 223 temporary service for reserve training. ~~No credited service~~
 224 ~~shall be given for military service prior to employment or for~~

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225 ~~service as a firefighter or police officer for any other~~
226 ~~employer.~~ However, the amount of any pension or compensation
227 that may be received from the Federal Government on account of
228 disability from such service shall be deducted from the amount
229 of any pension due under this Act. The deduction of the amount
230 of any pension or compensation received from the Federal
231 Government shall be made only where the period of military
232 service (not exceeding five (5) years) is added to the period of
233 actual service of the member in either the Fire or Police
234 Department in order to make up the required number of years for
235 retirement on a City pension; that the disability for which any
236 pension or compensation is received from the Federal Government
237 shall be only such disability that was incurred in the military
238 service during the same period of military service used by the
239 member to add to his actual service in the Police or Fire
240 Departments in order to make up the number of years required for
241 retirement on a City pension; and that no deduction of the
242 amount of any pension or compensation received from the Federal
243 Government can or shall be made from the amount of any City
244 pension granted solely on account of disability. Any member who,
245 in order to perform such active military service, has left his
246 employment in the Police or Fire Departments of the City of
247 Tampa and (a) who received a certificate of honorable discharge
248 upon completion of such active military service, (b) is still
249 qualified to perform the duties of such position, (c) makes or
250 shall have made application for reemployment within thirty (30)
251 days after he is released from active military service, shall be
252 restored by the Police or Fire Department of the City of Tampa

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253 to such position or a position of like seniority, status and
254 pay.

255 (B) Immediately upon the passage of this Act the Board of
256 Trustees shall at once establish the service record of all
257 employees, who may be entitled to participate in the benefits of
258 this Act, and shall keep a record thereof.

259 (C) For each firefighter and police officer who on October
260 15, 1992 was not a member of this Pension Fund, but who was a
261 member of Division B of the General Employees Pension Plan as
262 established by Chapter 81-497, Laws of Florida, as amended, who
263 elects to join this pension fund, for purposes of determining
264 eligibility for any benefit in which length of service is a
265 factor, the entire period of time served as a firefighter or
266 police officer with the City of Tampa, either continuous or
267 interrupted, shall be included; provided, however, that any
268 leave of absence without pay shall not be included unless
269 required by applicable law, any service as a police recruit
270 shall not be included, and any service in which the firefighter
271 or police officer withdrew his/her contributions shall not be
272 included. Active military service shall be included to the
273 extent required by law.

274 (D) A member who has separated from service as a
275 firefighter or police officer and who has taken a refund of his
276 pension contributions, who is later readmitted to the Fund,
277 shall have the option of purchasing past creditable service.

278 (1) The readmitted member shall make the election in
279 writing to purchase past creditable service on a form prescribed
280 by the Board within 90 days of readmission, which election shall

281 be legally binding.

282 (2) The readmitted member who elects to purchase past
 283 creditable service shall repay the withdrawn contributions with
 284 interest at the actuarially assumed rate of return of the Fund
 285 within 90 days of the later of, readmission or receipt of
 286 written notification from the Board of the amount due. Interest
 287 shall be calculated from the date of withdrawal to the date of
 288 repayment at the actuarially assumed rate of return of the Fund.

289 (3) A member who fails to pay withdrawn contributions with
 290 interest as provided in this subsection within 90 days of the
 291 later of, readmission or receipt of written notification from
 292 the Board of the amount due, shall not receive creditable
 293 service for the period of time for which the withdrawn
 294 contributions apply.

295 (E) All active police officer or firefighter members shall
 296 be permitted to purchase up to an additional five (5) years of
 297 credited service based upon (i) service as a full-time certified
 298 firefighter or certified police officer employed by a city,
 299 county, state, federal, or other public agency, or (ii) military
 300 service in the Armed Forces of the United States. Temporary,
 301 auxiliary, reserve, volunteer, or private agency service shall
 302 not apply. Service credit purchased under the provisions of this
 303 section shall not count for vesting purposes.

304 (1) Prior service shall not be granted until the member
 305 has paid to the Pension Fund the actuarial cost of the service
 306 purchased, as determined by the actuary for the Plan. Said
 307 actuarial calculation shall be paid for by the member. Members
 308 purchasing service credit shall provide the Board of Trustees

309 with proof of prior service with honorable separation. No
 310 service credit may be purchased if the member is receiving or
 311 will receive any other retirement benefit based on this service,
 312 except in the case of a military pension.

313 (2) The contribution by the member of the actuarially
 314 determined cost of the buyback may be made in one lump sum or
 315 may be made by payroll deductions in installments for a period
 316 of time which shall not exceed the number of years being
 317 purchased. A member electing to make installment payments shall
 318 be charged interest based on the actuarially assumed rate of
 319 return for the Plan. A member making installment payments shall
 320 complete all required payments prior to payment of any benefit
 321 under this section.

322 (3) A member who terminates service prior to vesting in
 323 the Plan shall be entitled to a refund, without interest, of all
 324 money paid to buy back prior military, firefighter, or police
 325 officer service.

326 SECTION 26. DEFERRED RETIREMENT OPTION PROGRAM

327 Notwithstanding any other provisions of this contract, and
 328 subject to the provisions of this section, the Deferred
 329 Retirement Option Program, hereinafter referred to as the DROP,
 330 is an option under which an eligible member may elect to have
 331 the member's pension benefits calculated as of a certain date
 332 prior to retirement, and accumulate benefits plus the investment
 333 return pursuant to this section during the DROP calculation
 334 period. Participation in the DROP does not guarantee employment
 335 for the DROP calculation period, as defined in this section.

336 (D) Interest and Administrative Costs - Interest shall

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337 ~~accumulate annually at the rate to reflect the Fund's net~~
338 ~~investment performance,~~ whether positive or negative, during the
339 DROP calculation period, less the cost of administering the
340 DROP, all of which shall be determined by the Board of Trustees.
341 A DROP participant shall have the opportunity to elect, as
342 provided in this subsection, an investment option to be applied
343 to such DROP participant's account for the Plan Year when
344 entering the DROP and for each subsequent Plan Year. In such
345 election, the DROP participant shall choose to have interest
346 accumulate annually, whether positive or negative, at either (i)
347 a rate reflecting the Fund's net investment performance, as
348 determined by the Board of Trustees, or (ii) a rate reflecting a
349 low-risk variable rate selected annually by the Board of
350 Trustees in its sole discretion. Each election must be made at
351 such time, on such forms, and in such manner as the Board of
352 Trustees may determine in its sole discretion. If the DROP
353 participant fails to make a valid election upon entering the
354 DROP, the Fund interest rate shall be applied as provided
355 herein. If the DROP participant fails to make a valid election
356 in a subsequent Plan Year, the election for the then-current
357 Plan Year shall be applied.

358 Section 3. The changes to the pension contract in this act
359 for firefighters and police officers who are active members of
360 the City Pension Fund for Firefighters and Police Officers in
361 the City of Tampa on or after the date this act becomes a law
362 shall be made available in a supplemental pension contract, and
363 an individual shall not be permitted to select some of the
364 pension contract changes and reject other pension contract

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365 changes. Any firefighter or police officer who is entitled to
366 benefits under the City Pension Fund for Firefighters and Police
367 Officers in the City of Tampa who is actively employed as a
368 firefighter or police officer in the City of Tampa on or after
369 the date this act becomes a law shall have the opportunity to
370 sign such supplemental pension contract before October 1, 2011.
371 However, any person who becomes a member of the City Pension
372 Fund for Firefighters and Police Officers in the City of Tampa
373 on or after the date this act becomes a law shall be required as
374 a condition of membership into said Pension Fund to sign a
375 pension contract which includes the provisions of this act and
376 shall be required to make contributions if required as a result
377 of such benefits.

378 Section 4. The City of Tampa Firefighters and Police
379 Officers Pension Contract as prescribed by Section 28-17 of the
380 City of Tampa Code [Ordinance No. 4746-A, enacted September 30,
381 1969], as amended by Section 28-19 of the City of Tampa Code
382 [Ordinance No. 6038-A, enacted September 17, 1974], pursuant to
383 chapter 74-613, Laws of Florida, as further amended by Ordinance
384 No. 89-314, enacted December 21, 1989, and approved, ratified,
385 validated, and confirmed by chapter 90-391, Laws of Florida, as
386 further amended by chapter 92-231, Laws of Florida, chapter 94-
387 463, Laws of Florida, chapter 98-515, Laws of Florida, chapter
388 2000-485, Laws of Florida, Ordinance No. 2001-133, enacted July
389 3, 2001, chapter 2001-288, Laws of Florida, chapter 2002-369,
390 Laws of Florida, Ordinance No. 2003-22, enacted January 23,
391 2003, chapter 2004-427, Laws of Florida, and chapter 2007-304,

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392 Laws of Florida, is in all other respects approved, ratified,
393 validated, and confirmed.

394 Section 5. If any provision of this act or its application
395 to any person or circumstance is held invalid, the invalidity
396 does not affect other provisions or applications of the act
397 which can be given effect without the invalid provision or
398 application, and to this end the provisions of this act are
399 severable.

400 Section 6. This act shall take effect October 1, 2011.