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CS/HB 231

2011 Legislature

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 is
14 measured on a market value basis and may not be revised,
15 amended, increased, or repealed except as provided by
16 general law; allowing retired members to elect to receive
17 a reduced retirement benefit in order to provide a
18 surviving spouse benefit under certain circumstances;
19 allowing members to purchase up to an additional 5 years
20 of credited service based upon prior service as a full-
21 time certified firefighter or certified police officer or
22 for military service in the Armed Forces of the United
23 States subject to certain conditions; allowing DROP
24 participants upon entering DROP and annually thereafter to
25 elect an option for accruing annual interest at a low-risk
26 variable rate selected annually by the board of trustees,
27 in its sole discretion, in lieu of a rate reflecting the
28 fund's net investment performance, as determined by the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

34

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

36

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

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

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57 Florida, chapter 2002-369, Laws of Florida, Ordinance No. 2003-
58 22, enacted January 23, 2003, chapter 2004-427, Laws of Florida,
59 and chapter 2007-304, Laws of Florida, are amended to read:

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

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

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

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

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

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85 Trustees shall meet, organize, and elect one trustee as chairman,
86 one trustee as vice chairman, and one trustee as secretary within
87 ten days after any trustees are elected and duly qualified.

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

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

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

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

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

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141 | thereof. The investment cap on foreign securities may not be
142 | revised, amended, increased, or repealed except as provided by
143 | general law.

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

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

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

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

195 (b) The election under subparagraph (a) is available only
 196 if (i) the spouse is not more than twenty (20) years younger

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

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

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

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

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253 restored by the Police or Fire Department of the City of Tampa
254 to such position or a position of like seniority, status and
255 pay.

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

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

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

279 (1) The readmitted member shall make the election in
280 writing to purchase past creditable service on a form prescribed

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281 by the Board within 90 days of readmission, which election shall
282 be legally binding.

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

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

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

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

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

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

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

327 SECTION 26. DEFERRED RETIREMENT OPTION PROGRAM

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

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

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

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

379 Section 4. The City of Tampa Firefighters and Police
 380 Officers Pension Contract as prescribed by Section 28-17 of the
 381 City of Tampa Code [Ordinance No. 4746-A, enacted September 30,
 382 1969], as amended by Section 28-19 of the City of Tampa Code
 383 [Ordinance No. 6038-A, enacted September 17, 1974], pursuant to
 384 chapter 74-613, Laws of Florida, as further amended by Ordinance
 385 No. 89-314, enacted December 21, 1989, and approved, ratified,
 386 validated, and confirmed by chapter 90-391, Laws of Florida, as
 387 further amended by chapter 92-231, Laws of Florida, chapter 94-
 388 463, Laws of Florida, chapter 98-515, Laws of Florida, chapter
 389 2000-485, Laws of Florida, Ordinance No. 2001-133, enacted July
 390 3, 2001, chapter 2001-288, Laws of Florida, chapter 2002-369,
 391 Laws of Florida, Ordinance No. 2003-22, enacted January 23,
 392 2003, chapter 2004-427, Laws of Florida, and chapter 2007-304,

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

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

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