

By Senator Joyner

18-00753-11

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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; revising the General Employees' Pension
5 Plan for the City of Tampa; revising the definitions
6 of the terms "Salaries or Wages," "Employee," and
7 "Military Service Time"; revising application of the
8 term "Actuarial Equivalent"; defining the term
9 "Limitation Year"; providing that all employee
10 contributions to the pension fund after a certain date
11 are mandatory and that the city shall pay such
12 contributions to the fund on behalf of the employee;
13 providing certain beneficiaries an option to roll over
14 certain death benefits; providing for a refund of
15 employee contributions; revising the provision that
16 addresses the reemployment of retired employees;
17 revising construction of the act; allowing DROP
18 members the opportunity to elect an investment option,
19 as determined by the board of trustees, to be applied
20 to the participant's account for the plan year
21 entering the DROP program and for each subsequent plan
22 year; revising benefit limitations; revising
23 requirements for distribution of benefits; providing a
24 default distribution when a member fails to elect a
25 distribution option; revising direct rollover options;
26 revising the definitions of the terms "eligible
27 rollover distribution," "eligible rollover plan," and
28 "distributee"; providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

31
32 Section 1. Subsections (A), (E), (H), and (P) of section 4,
33 subsection (A) of section 5, subsection (B) of section 16,
34 section 19, subsection (D) of section 22, subsections (A), (B),
35 (D), (E), and (F) of section 24, and sections 25 and 26 of
36 chapter 23559, Laws of Florida, 1945, as amended, are amended,
37 and subsection (S) is added to section 4, subsection (C) is
38 added to section 12, and subsection (C) is added to section 14
39 of that chapter, to read:

40 Section 4. Definitions.

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

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59 nonqualified unfunded deferred salary or wages plan; and
60 severance pay that is paid after an Employee severs employment
61 with the City. However, Salaries or Wages, as defined herein,
62 earned but not paid to the Employee by the Employee's severance
63 date with the City shall be considered Salary or Wages for Plan
64 purposes. In addition to other applicable limitations set forth
65 in the Plan, and notwithstanding any other provision of the Plan
66 to the contrary, for Plan Years beginning on or after January 1,
67 1996, the annual Salaries or Wages of each Employee taken into
68 account under the Plan shall not exceed the annual compensation
69 limit provided for in Section 401(a)(17) of the Code ~~the Omnibus~~
70 ~~Budget Reconciliation Act of 1993 (the "OBRA 1993 Annual~~
71 ~~Compensation Limit")~~. ~~The OBRA 1993 Annual Compensation Limit is~~
72 ~~\$150,000,~~ as adjusted by the Commissioner of the Internal
73 Revenue Service for increases in the cost-of-living in
74 accordance with Section 401(a)(17)(B) of the ~~Internal Revenue~~
75 ~~Code of 1986, as amended (the "Code")~~. The cost-of-living
76 adjustment in effect for a calendar year applies to any period,
77 not exceeding 12 months, over which Salaries or Wages are
78 determined (determination period) beginning in such calendar
79 year. If a determination period consists of fewer than 12
80 months, the ~~OBRA 1993 Annual Compensation Limit~~ will be
81 multiplied by a fraction, the numerator of which is the number
82 of months in the determination period, and the denominator of
83 which is 12. ~~For Plan Years beginning on or after January 1,~~
84 ~~1996, any reference in this Plan to the limitation under Section~~
85 ~~401(a)(17) of the Code shall mean the OBRA 1993 Annual~~
86 ~~Compensation Limit set forth in this provision.~~ The limitation
87 on Salaries or Wages for an "eligible Employee" shall not be

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

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

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

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

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

164 (S) Limitation Year. The limitation year shall be the Plan
165 Year.

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

168 (A) Employee Contributions. Division A Employees.
169 Commencing for earnings paid beginning with the first pay date
170 after January 1, 2005, all Employee contributions to the Fund
171 shall be mandatory Employee contributions and shall be picked up
172 and paid by the City on behalf of the member. Such contributions
173 shall be made by Employees in an amount equal to ~~There shall be~~
174 ~~a contribution of 7 percent of all Salaries or Wages of all~~

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175 Employees participating in this Fund, which shall be deducted
176 from said Salaries or Wages by the Director of Finance, before
177 the same are paid, as long as the Employee continues in the
178 Service of the City of Tampa, regardless of the number of years
179 of Service with the City. Such contributions, although
180 designated as Employee contributions, shall be paid by the City
181 in lieu of contributions by the Employee. The contributions so
182 assumed shall be treated as tax-deferred Employer "pick-up"
183 contributions pursuant to Section 414(h) of the Code. Members
184 shall not have the option of receiving the contributed amounts
185 directly instead of having such contributions paid by the City
186 to the Fund.

187 Section 12. Death Benefits.

188 (C) When the designated beneficiary, as defined in Section
189 401(a) (9) (E) of the Code, is not the Employee's spouse
190 (including, without limitation, a child, parent, or sibling),
191 distributions made after December 31, 2006, from Division A and
192 Division B shall be made in accordance with Section 402(c) (11)
193 of the Code, and such designated beneficiary shall have the
194 option to roll over all or a portion of his or her death benefit
195 via a direct trustee-to-trustee transfer to an inherited
196 individual retirement account, as defined in Section
197 408(d) (3) (c) of the Code, provided such distribution meets the
198 definition of an eligible rollover distribution as defined in
199 Section 26 of this Act.

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

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

203 Section 16. Reemployment of Retired Employees ~~Employee~~.

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204 Upon the employment of any person in Division A or Division B
205 who shall have retired under the pension or retirement Plan and
206 shall be receiving pension payments, such person shall resume
207 his participation in the Plan, shall not be entitled to receive
208 pension payments during or for the period of such additional
209 Service, the period of such retirement shall not constitute a
210 break in Service, and the period of such retirement shall not be
211 allowed as creditable Service. The monthly pension payable when
212 such officer or person is eligible to receive a pension shall
213 consist of the sum of (A) and (B) below, provided that the total
214 pension shall not be less than \$100 per month after 25 years of
215 Service.

216 (A) The monthly pension he was receiving immediately prior
217 to the commencement of his additional Service; plus

218 (B) One and two-tenths ~~one-tenths~~ percent of his Average
219 Monthly Salary at the end of his period of additional Service
220 multiplied by the number of years of additional Service,
221 provided, however, that this additional benefit shall not be
222 payable before the age of 62 years.

223 Section 19. Construction. This Act shall be liberally
224 construed in accordance with general law and the federal tax
225 code, and if any part or portion thereof be declared invalid, or
226 the application thereof to any person, circumstance, or thing is
227 declared invalid, the validity of the remainder of this Act
228 shall not be affected thereby.

229 Section 22. Deferred Retirement Option Program.
230 Notwithstanding any other provisions of this Act, and subject to
231 the provisions of this section, the Deferred Retirement Option
232 Program, hereinafter referred to as the DROP, is an option under

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233 which an eligible member may elect, commencing on October 1,
234 1999, to have the member's pension benefits calculated as of a
235 certain date prior to retirement, and accumulate benefits plus
236 the investment return pursuant to this section during the DROP
237 calculation period. Participation in the DROP does not guarantee
238 employment for the DROP calculation period, as defined in this
239 section.

240 D. Interest and administrative costs. Interest shall
241 accumulate annually ~~at a rate reflecting the Fund's net~~
242 ~~investment performance~~, whether positive or negative, during the
243 DROP calculation period, less the cost of administering the
244 DROP, all of which shall be determined by the Board of Trustees.
245 A DROP participant shall have the opportunity to elect, as
246 provided in this subsection, an investment option to be applied
247 to such DROP participant's account for the Plan Year when
248 entering the DROP and for each subsequent Plan Year. In such
249 election, the DROP participant shall choose to have interest
250 accumulate annually, whether positive or negative, at either (i)
251 a rate reflecting the Fund's net investment performance, as
252 determined by the Board of Trustees, or (ii) a rate reflective
253 of a low-risk variable rate selected annually by the Board of
254 Trustees in its sole discretion. Each election must be made at
255 such time, on such forms, and in such manner as the Board of
256 Trustees may determine in its sole discretion. If a DROP
257 participant fails to make a valid election upon entering the
258 DROP, the Fund interest rate shall be applied as provided in (i)
259 herein. If a DROP participant fails to make a valid election in
260 a subsequent Plan Year, the election for the then-current Plan
261 Year shall be applied.

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262 Section 24. Limitations on Amounts of Benefits.

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

269 (B)1. The ~~\$90,000~~ limitation set forth in subsection (A)
270 shall be actuarially reduced in accordance with regulations
271 prescribed by the Secretary of the Treasury for any retirement
272 benefit that may begin before an Employee attains age 62, by
273 adjusting such benefit so that it is equivalent to such a
274 benefit beginning at age 62. For Plan Years ending before
275 January 1, 2002, and repealed for Plan Years ending thereafter,
276 the reduction shall not reduce the ~~\$90,000~~ limitation set forth
277 in subsection (A) to less than (a) \$75,000 if the benefit begins
278 at or after age 55, or (b) if the benefit begins before age 55,
279 the equivalent of the \$75,000 limitation for age 55.

280 2. If any retirement benefit begins after the Employee
281 attains age 65, the ~~\$90,000~~ limitation set forth in subsection
282 (A) shall be adjusted (based upon an interest rate assumption of
283 5 percent) in accordance with regulations prescribed by the
284 Secretary of the Treasury, by adjusting such benefit so that it
285 is equivalent to such benefit beginning at age 65.

286 (D) In accordance with Section 415(b)(5) of the Code, the
287 ~~\$90,000~~ limitation in subsection (A), and the limitation in
288 subsection (C), shall be multiplied by a fraction (not in excess
289 of 1), the numerator of which is the number of the Employee's
290 years of Service in the Plan (in the case of the ~~\$90,000~~

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291 limitation set forth in subsection (A)) or the number of the
292 Employee's years of Service (in the case of the limitation set
293 forth in subsection (C)) and the denominator of which, in either
294 case, is 10.

295 (E) As of January 1 of each calendar year, the ~~\$90,000~~
296 limitation set forth in subsection (A) shall be adjusted as and
297 if permitted by the Secretary of the Treasury, and any such
298 adjusted limitation shall become effective as the maximum dollar
299 limitation under the Plan for that calendar year. The maximum
300 dollar limitation for a calendar year, as so adjusted, shall
301 apply to limitation years ending with or within such calendar
302 year.

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

305 1. In the event that any Employee participates in both a
306 defined benefit plan and a defined contribution plan maintained
307 by the City, then the sum of the Defined Benefit Plan Fraction
308 (as defined in Section 415(e) of the Code) and the Defined
309 Contribution Plan Fraction (as defined in Section 415(e) of the
310 Code) for any limitation year shall not exceed 1.0.

311 2. In the event that the sum of the Defined Benefit Plan
312 Fraction and the Defined Contribution Plan Fraction exceeds 1.0,
313 then the Board of Trustees shall take such actions, applied in a
314 uniform and nondiscriminatory manner, as will keep the benefits
315 and annual additions thereto for such Employees from exceeding
316 these limits. Adjustments shall be made to this Plan before any
317 adjustments shall be required to any other plans.

318 Section 25. Latest Date of Commencement of Benefits
319 ~~Required Distributions.~~ The distribution of a member's benefit

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320 shall be made in accordance with the following requirements, and
321 shall otherwise comply with Section 401(a) (9) of the Code and
322 the regulations thereunder, as prescribed by the Commissioner in
323 Revenue Rulings, Notices, and other guidance published in the
324 Internal Revenue Bulletin, to the extent that said provisions
325 apply to governmental plans under Section 414(d) of the Code.
326 The distribution provisions of Section 401(a) (9) of the Code
327 shall override any distribution options in the Plan inconsistent
328 with Section 401(a) (9) of the Code:

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

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

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

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

341 ~~(B) In the case of a benefit payable by reason of an~~
342 ~~Employee's retirement or other termination of employment, in no~~
343 ~~event shall payment extend beyond the life or life expectancy of~~
344 ~~the Employee or the joint lives or life expectancies of the~~
345 ~~Employee and the Employee's designated beneficiary. In the case~~
346 ~~of an Employee who is receiving his or her pension benefit as of~~
347 ~~the date of his or her death, the survivor portion of the~~
348 ~~Employee's pension benefit shall be paid at least as rapidly as~~

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

350 (C) Notwithstanding anything contained herein to the
351 contrary, payments under the Plan to a Beneficiary due to a
352 member's death shall satisfy the incidental death benefit
353 requirements and all other applicable provisions of Section
354 401(a)(9)(G) of the Code, the regulations issued thereunder
355 ~~(including Section 1.401(a)(9)-2 of the proposed Treasury~~
356 ~~regulations)~~, and such other rules thereunder as may be
357 prescribed by the Secretary of the Treasury, including IRS
358 Notice 2007-7, to the extent that said provisions apply to
359 governmental plans under Section 414(d) of the Code.

360 Section 26. Direct Rollovers.

361 (A) This section applies to distributions made on or after
362 January 1, 1993. Notwithstanding any provision of the Plan to
363 the contrary ~~that would otherwise limit a distributee's (as~~
364 ~~defined below) election under this section~~, a distributee may
365 elect, at the time and in the manner prescribed by the
366 Commissioner of the Internal Revenue Service, to have any
367 portion of an eligible rollover distribution (as defined below)
368 paid directly to an eligible retirement rollover plan (as
369 defined below) specified by the distributee in a direct rollover
370 (as defined below). If a member fails to elect a distribution
371 option as provided under Sections 14 and 22 of this Act, then
372 such member's benefit shall be rolled over to an individual
373 retirement account designated by the Board of Trustees, as
374 defined in Section 6.

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

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

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378 of all or any portion of the balance to the credit of the
379 distributee, except that an eligible rollover distribution does
380 not include: any distribution that is one of a series of
381 substantially equal periodic payments (not less frequently than
382 annually) made for the life (or life expectancy) of the
383 distributee or the joint lives (or joint life expectancies) of
384 the distributee and the distributee's designated beneficiary, or
385 for a specified period of 10 years or more; any distribution to
386 the extent such distribution is required under Section 401(a)(9)
387 of the Code; ~~7~~ and the portion of any distribution that is not
388 includable in gross income (determined without regard to the
389 exclusion for net unrealized appreciation with respect to
390 employer securities). Notwithstanding the above, a portion of a
391 distribution shall not fail to be an "eligible rollover
392 distribution" merely because the portion consists of after-tax
393 voluntary Employee contributions that are not includable in
394 gross income. However, such portion may be transferred only to
395 an individual retirement account or annuity described in Section
396 408(a) or (b) of the Code or to a qualified defined contribution
397 plan described in Section 401(a) or 403(a) of the Code that
398 agrees to separately account for amounts transferred, including
399 separately accounting for the portion of such distribution that
400 is includable in gross income and the portion of such
401 distribution that is not so includable.

402 2. An "eligible retirement rollover plan" is an individual
403 retirement account described in Section 408(a) of the Code, an
404 individual retirement annuity described in Section 408(b) of the
405 Code, other than an endowment contract; an annuity plan
406 described in Section 403(a) of the Code, or a qualified trust

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407 (an employees' trust) described in Section 401(a) of the Code
408 that is exempt from tax under Section 501(a) of the Code; an
409 annuity plan described in Section 403(a) of the Code; an
410 eligible plan under Section 457(b) of the Code that is
411 maintained by a state, a political subdivision of a state, or
412 any agency or instrumentality of a state or political
413 subdivision and that agrees to separately account for amounts
414 transferred into such plan from this Plan; or an annuity
415 contract described in Section 403(b) of the Code that accepts
416 the distributee's eligible rollover distribution. However, in
417 the case of an eligible rollover distribution to the surviving
418 spouse, an eligible retirement rollover plan is an individual
419 retirement account or individual retirement annuity.

420 3. A "distributee" includes the member or former member ~~an~~
421 ~~Employee or former employee~~. In addition, the member's
422 ~~Employee's~~ or former member's ~~employee's~~ surviving spouse and
423 the member's ~~Employee's~~ or former member's ~~employee's~~ spouse or
424 former spouse who is the alternate payee under a qualified
425 domestic relations order, as defined in Section 414(p) of the
426 Code, are distributees with regard to the interest of the spouse
427 or former spouse.

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

430 Section 2. This act shall take effect October 1, 2011.