

By Senator Joyner

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16 repealed except as provided by general law; allowing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

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

36
37 Be It Enacted by the Legislature of the State of Florida:

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

46 Section 2. Section 5(C), Section 6, Section 9(C), Section
47 17, and Section 26(D) of the City of Tampa Firefighters and
48 Police Officers Pension Contract as prescribed by Section 28-17
49 of the City of Tampa Code [Ordinance No. 4746-A, enacted
50 September 30, 1969], as amended by Section 28-19 of the City of
51 Tampa Code [Ordinance No. 6038-A, enacted September 17, 1974],
52 pursuant to chapter 74-613, Laws of Florida, as further amended
53 by Ordinance No. 89-314, enacted December 21, 1989, and
54 approved, ratified, validated, and confirmed by chapter 90-391,
55 Laws of Florida, as further amended by chapter 92-231, Laws of
56 Florida, chapter 94-463, Laws of Florida, chapter 98-515, Laws
57 of Florida, chapter 2000-485, Laws of Florida, Ordinance No.
58 2001-133, enacted July 3, 2001, chapter 2001-288, Laws of

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59 Florida, chapter 2002-369, Laws of Florida, Ordinance No. 2003-
60 22, enacted January 23, 2003, chapter 2004-427, Laws of Florida,
61 and chapter 2007-304, Laws of Florida, are amended to read:

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

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

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

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

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

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88 chairman, one trustee as vice chairman, and one trustee as
89 secretary within ten days after any trustees are elected and
90 duly qualified.

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

102 (1) That the Board shall retain the services of one or more
103 ~~a~~ nationally recognized professional investment counselors
104 ~~counsel~~.

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

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

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

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146 repealed except as provided by general law.

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

156 (C) (1) The widow or widower of a member who dies while
157 receiving a retirement pension shall receive sixty-five per
158 centum (65%) of the pension which the member was receiving;
159 provided, however, that no pension shall be allowed to any widow
160 or widower unless she or he was married to the member prior to
161 the date of retirement of the member, except as provided in
162 paragraph (2). For the widow or widower of any member of this
163 Pension Fund who prior to October 16, 1992 was a member of
164 Division B of the General Employees Pension Plan as established
165 by Chapter 81-497, Laws of Florida, as amended, upon the
166 reaching social security normal retirement age, except as
167 provided in Section 28(C) of this Contract, the benefit paid to
168 the widow or widower shall be reduced by an amount equal to the
169 actual social security benefit earned by the member for
170 employment as a firefighter or police officer for the City to
171 the extent that such employment is considered to be creditable
172 service under this Fund; provided, however, that if the widow or
173 widower does not receive the member's accrued social security
174 benefit, there shall be no reduction in benefits paid to such

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175 widow or widower. The effect of such reduction shall be that the
176 sum of the benefit paid herein and said social security benefit
177 shall be equal to the amount of the benefit otherwise payable
178 herein. The widow or widower of each such member shall, upon
179 demand by the Board, authorize the Social Security
180 Administration to release any information necessary to calculate
181 such reduction. The Board shall not make any payment for the
182 benefit payable herein for any period during which such widow or
183 widower willfully fails or refuses to authorize the release of
184 such information in the manner and within the time prescribed by
185 rules adopted by the Board.

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

198 (b) The election under subparagraph (a) is available only
199 if (i) the spouse is not more than twenty (20) years younger
200 than the married or remarried member, (ii) the marriage or
201 remarriage occurred at least three (3) years prior to the
202 member's said election, and (iii) the electing member is
203 restricted to exercising this provision for a maximum of two

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204 remarriages after retirement.

205 SECTION 17. COMPUTATION OF PENSION SERVICES AND PURCHASE OF
206 PAST CREDITED SERVICE.

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

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

259 (B) Immediately upon the passage of this Act the Board of
260 Trustees shall at once establish the service record of all
261 employees, who may be entitled to participate in the benefits of

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262 this Act, and shall keep a record thereof.

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

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

282 (1) The readmitted member shall make the election in
283 writing to purchase past creditable service on a form prescribed
284 by the Board within 90 days of readmission, which election shall
285 be legally binding.

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

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291 shall be calculated from the date of withdrawal to the date of
292 repayment at the actuarially assumed rate of return of the Fund.

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

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

308 (1) Prior service shall not be granted until the member has
309 paid to the Pension Fund the actuarial cost of the service
310 purchased, as determined by the actuary for the Plan. Said
311 actuarial calculation shall be paid for by the member. Members
312 purchasing service credit shall provide the Board of Trustees
313 with proof of prior service with honorable separation. No
314 service credit may be purchased if the member is receiving or
315 will receive any other retirement benefit based on this service,
316 except in the case of a military pension.

317 (2) The contribution by the member of the actuarially
318 determined cost of the buyback may be made in one lump sum or
319 may be made by payroll deductions in installments for a period

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320 of time which shall not exceed the number of years being
321 purchased. A member electing to make installment payments shall
322 be charged interest based on the actuarially assumed rate of
323 return for the Plan. A member making installment payments shall
324 complete all required payments prior to payment of any benefit
325 under this section.

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

330 SECTION 26. DEFERRED RETIREMENT OPTION PROGRAM

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

340 (D) Interest and Administrative Costs - Interest shall
341 accumulate annually ~~at the rate to reflect the Fund's net~~
342 ~~investment performance~~, whether positive or negative, during the
343 DROP calculation period, less the cost of administering the
344 DROP, all of which shall be determined by the Board of Trustees.
345 A DROP participant shall have the opportunity to elect, as
346 provided in this subsection, an investment option to be applied
347 to such DROP participant's account for the Plan Year when
348 entering the DROP and for each subsequent Plan Year. In such

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349 election, the DROP participant shall choose to have interest
350 accumulate annually, whether positive or negative, at either (i)
351 a rate reflecting the Fund's net investment performance, as
352 determined by the Board of Trustees, or (ii) a rate reflecting a
353 low-risk variable rate selected annually by the Board of
354 Trustees in its sole discretion. Each election must be made at
355 such time, on such forms, and in such manner as the Board of
356 Trustees may determine in its sole discretion. If the DROP
357 participant fails to make a valid election upon entering the
358 DROP, the Fund interest rate shall be applied as provided
359 herein. If the DROP participant fails to make a valid election
360 in a subsequent Plan Year, the election for the then-current
361 Plan Year shall be applied.

362 Section 3. The changes to the pension contract in this act
363 for firefighters and police officers who are active members of
364 the City Pension Fund for Firefighters and Police Officers in
365 the City of Tampa on or after the date this act becomes a law
366 shall be made available in a supplemental pension contract, and
367 an individual shall not be permitted to select some of the
368 pension contract changes and reject other pension contract
369 changes. Any firefighter or police officer who is entitled to
370 benefits under the City Pension Fund for Firefighters and Police
371 Officers in the City of Tampa who is actively employed as a
372 firefighter or police officer in the City of Tampa on or after
373 the date this act becomes a law shall have the opportunity to
374 sign such supplemental pension contract before October 1, 2011.
375 However, any person who becomes a member of the City Pension
376 Fund for Firefighters and Police Officers in the City of Tampa
377 on or after the date this act becomes a law shall be required as

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378 a condition of membership into said Pension Fund to sign a
379 pension contract which includes the provisions of this act and
380 shall be required to make contributions if required as a result
381 of such benefits.

382 Section 4. The City of Tampa Firefighters and Police
383 Officers Pension Contract as prescribed by Section 28-17 of the
384 City of Tampa Code [Ordinance No. 4746-A, enacted September 30,
385 1969], as amended by Section 28-19 of the City of Tampa Code
386 [Ordinance No. 6038-A, enacted September 17, 1974], pursuant to
387 chapter 74-613, Laws of Florida, as further amended by Ordinance
388 No. 89-314, enacted December 21, 1989, and approved, ratified,
389 validated, and confirmed by chapter 90-391, Laws of Florida, as
390 further amended by chapter 92-231, Laws of Florida, chapter 94-
391 463, Laws of Florida, chapter 98-515, Laws of Florida, chapter
392 2000-485, Laws of Florida, Ordinance No. 2001-133, enacted July
393 3, 2001, chapter 2001-288, Laws of Florida, chapter 2002-369,
394 Laws of Florida, Ordinance No. 2003-22, enacted January 23,
395 2003, chapter 2004-427, Laws of Florida, and chapter 2007-304,
396 Laws of Florida, is in all other respects approved, ratified,
397 validated, and confirmed.

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

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