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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 increase the
7 amount of pension received by a widow or widower or
8 child or children should a member lose his or her life
9 or later die from injuries or causes occurring while
10 in the discharge of duties; allowing a joint annuitant
11 who is also a lawfully wedded spouse to be eligible
12 for a 13th check; confirming in part the City of Tampa
13 Firefighters and Police Officers Pension Contract;
14 providing for severability; providing an effective
15 date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. The City of Tampa is authorized and empowered
20 to enter into a supplemental contract with each and every
21 firefighter or police officer who was an active member of the
22 City Pension Fund for Firefighters and Police Officers in the
23 City of Tampa on or after October 1, 2012, or who hereafter
24 enters into a pension contract with the City.

25 Section 2. Sections 8 and 27 of the City of Tampa
26 Firefighters and Police Officers Pension Contract as prescribed
27 by Section 28-17 of the City of Tampa Code [Ordinance No. 4746-
28 A, enacted September 30, 1969], as amended by Section 28-19 of

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29 the City of Tampa Code [Ordinance No. 6038-A, enacted September
30 17, 1974], pursuant to chapter 74-613, Laws of Florida, as
31 further amended by Ordinance No. 89-314, enacted December 21,
32 1989, and approved, ratified, validated, and confirmed by
33 chapter 90-391, Laws of Florida, and as further amended by
34 chapter 92-231, Laws of Florida, chapter 94-463, Laws of
35 Florida, chapter 98-515, Laws of Florida, chapter 2000-485, Laws
36 of Florida, Ordinance No. 2001-133, enacted July 3, 2001,
37 chapter 2001-288, Laws of Florida, chapter 2002-369, Laws of
38 Florida, Ordinance No. 2003-22, enacted January 23, 2003,
39 chapter 2004-427, Laws of Florida, chapter 2007-304, Laws of
40 Florida, and chapter 2011-240, Laws of Florida, are amended to
41 read:

42 Section 8. If any member of either department shall lose his
43 life or later die from injuries or causes occurring while in the
44 discharge of his duties, and shall leave a widow or widower, or
45 child or children under the age of eighteen (18) years, or age
46 twenty-three (23) if a full-time student, the Board shall
47 authorize and direct payment of a pension to the widow or widower
48 and/or child or children, but only in the following amounts and on
49 the following conditions:

50 (A) To the widow or widower in equal monthly installments
51 an amount equal to sixty-five ~~fifty~~ per centum (65% ~~50%~~) of the
52 member's final year's earnings, computed from date of death,
53 until death. For the widow or widower of a firefighter or police
54 officer killed in the line of duty prior to October 1, 1969, the
55 minimum benefit under this section shall be \$1,500 per month
56 (Base plus PRAA). For the widow or widower of any member of this

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57 Pension Fund who prior to October 16, 1992, was a member of
58 Division B of the General Employees Pension Plan as established
59 by Chapter 81-497, Laws of Florida, as amended, upon the
60 reaching social security normal retirement age, except as
61 provided in Section 28(C) of this Contract, the benefit paid to
62 the widow or widower shall be reduced by an amount equal to the
63 actual social security benefit earned by the member for
64 employment as a firefighter or police officer for the City to
65 the extent that such employment is considered to be creditable
66 service under this Fund; provided, however, that if the widow or
67 widower does not receive the member's accrued social security
68 benefit, there shall be no reduction in benefits paid to such
69 widow or widower. The effect of such reduction shall be that the
70 sum of the benefit paid herein and said social security benefit
71 shall be equal to the amount of the benefit otherwise payable
72 herein. The widow or widower of each such member shall, upon
73 demand by the Board, authorize the Social Security
74 Administration to release any information necessary to calculate
75 such reduction. The Board shall not make any payment for the
76 benefit payable herein for any period during which such widow or
77 widower willfully fails or refuses to authorize the release of
78 such information in the manner and within the time prescribed by
79 rules adopted by the Board.

80 (B) For each child until he or she shall have reached the
81 age of eighteen (18) years, or until such child or children
82 shall die or marry before reaching the age of eighteen (18)
83 years, or age twenty-three (23) if a full-time student, in equal
84 monthly installments an amount equal to fifteen ~~seven and one~~

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85 ~~half~~ per centum (15% ~~7½%~~) of the final year's earnings, computed
86 from date of death, subject to a limitation of a total of
87 ninety-five ~~sixty-five~~ per centum (95% ~~65%~~) of final yearly
88 earnings for widow or widower and children combined. Children's
89 pensions shall terminate at death or marriage as well as
90 reaching age eighteen (18), or age twenty-three (23) if a full-
91 time student. Adopted children shall participate.

92 (C) Upon death of the widow or widower, the fifteen ~~seven~~
93 ~~and one-half~~ per centum (15% ~~7½%~~) child allowance shall be
94 increased to thirty ~~fifteen~~ per centum (30% ~~15%~~) for each child,
95 and shall be paid in trust to eligible children, not to exceed a
96 total of sixty ~~fifty~~ per centum (60% ~~50%~~) of member's final
97 earnings.

98 (D) The trusteeship and disbursement of the pension to any
99 child or children is to be determined by the Board of Trustees.

100 (E) No pension shall be allowed to any stepchild or
101 stepchildren of a deceased member.

102 (F) In the absence of an eligible surviving spouse or
103 minor children, to the extent required by the Florida Statutes,
104 in the event of the death of a member prior to retirement, the
105 member's designated beneficiary shall be entitled to the
106 benefits otherwise payable to the member at normal retirement
107 age for ten (10) years certain.

108 (G) In the case of a surviving widow or widower and a
109 surviving child as defined in this act, who is in pay status on
110 October 1, 2012, the benefit received shall be increased on the
111 first payment date after October 1, 2012.

112 Section 27. 13th CHECK PROGRAM - Notwithstanding any other
 113 provisions of this contract, and subject to the provisions of
 114 this section, the 13th Check Program is a program which
 115 authorizes the Board of Trustees to establish and make a
 116 supplemental pension distribution, pursuant to the following
 117 terms and conditions:

118 (A) Eligibility - The following persons shall be eligible
 119 for the supplemental pension distribution payable no later than
 120 June 30, 2002, and each June 30 annually thereafter:

121 (1) All retired members who have terminated employment as
 122 a firefighter or police officer in the fire department or police
 123 department, respectively, who, on the October 1 immediately
 124 preceding the June 30 by which distributions are to be made,
 125 were eligible to receive pension benefits for at least 1 year.
 126 For purposes of this section only, a DROP participant shall be
 127 considered a retired member and, during the DROP calculation
 128 period, a DROP participant shall be eligible for the 13th check
 129 benefit, provided that, on the October 1 immediately preceding
 130 the June 30 by which distributions are to be made, such DROP
 131 participant had participated in the DROP for at least 1 year.†

132 (2) All qualifying spouses who were eligible to receive
 133 pension benefits pursuant to Section 8 or Section 9 for at least
 134 1 year on the October 1 immediately preceding the June 30 by
 135 which distributions are to be made.† ~~and~~

136 (3) All qualifying surviving spouses, who on the October 1
 137 immediately preceding the June 30 by which distributions are to
 138 be made, were eligible for receipt of Section 8 or Section 9
 139 benefits but who have not received such pension benefits for at

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140 | least 1 year provided that the deceased member was eligible for
 141 | receipt of pension benefits on October 1 of the prior year.

142 | (4) A joint annuitant who is also a lawfully wedded spouse
 143 | of the retiree and who was eligible to receive pension benefits
 144 | pursuant to Section 7 for at least 1 year on the October 1
 145 | immediately preceding the June 30 by which distributions are
 146 | made.

147 | (5) A joint annuitant who is also a lawfully wedded spouse
 148 | of the retiree and who on the October 1 immediately preceding
 149 | the June 30 by which distributions are to be made was eligible
 150 | for receipt of Section 7 benefits but who has not received such
 151 | pension benefits for at least 1 year, provided that the deceased
 152 | member was eligible for receipt of pension benefits on October 1
 153 | of the prior year.

154 | (B) 13th Check Account

155 | (1) There is hereby created a 13th check account within
 156 | the Fund, which shall consist of those employees' contributions
 157 | set forth in subparagraph 27(B)(2) in excess of those
 158 | contributions otherwise required by Section 2 for the normal
 159 | annual cost of benefits, other than benefits arising from post
 160 | retirement adjustments made pursuant to Section 23 and other
 161 | than benefits arising from the 13th Check Program, plus any
 162 | interest earnings thereon up to and including September 30,
 163 | 2001. Effective for earnings paid on the first pay date after
 164 | October 1, 2001, employee contributions to the 13th Check
 165 | account shall cease, and the 13th Check Account shall be funded
 166 | by investment returns in excess of 10% (limited to 3%) on the
 167 | base plan liabilities for persons eligible for the 13th check.

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168 For purposes of this Section, the "base plan" shall mean those
 169 assets of the Fund excluding the Post Retirement Adjustment
 170 Account, DROP account assets, and the 13th check account. The
 171 amount available for the 13th check shall be calculated as of
 172 fiscal year end commencing September 30, 2001 for the fiscal
 173 year ending September 30, 2001 for payment no later than June
 174 30, 2002, and each June 30 annually thereafter; provided,
 175 however, the calculation of the amount payable no later than
 176 June 30, 2002, shall include employee contributions to the 13th
 177 check account for earnings paid through the last pay date
 178 immediately prior to October 1, 2001. Subject to the
 179 requirements of part VII of chapter 112, Florida Statutes,
 180 effective October 1, 2007, the 13th Check Account shall be
 181 funded by investment returns in excess of 10 percent (limited to
 182 1 percent) on the base plan plus the Post Retirement Adjustment
 183 Account market value of assets at each fiscal year ending
 184 September 30. For purposes of this section, the term "base plan"
 185 means those assets of the fund excluding the Post Retirement
 186 Adjustment Account, DROP account assets, and the 13th Check
 187 Account. The amount available for the 13th Check shall be
 188 calculated as of fiscal year end commencing September 30, 2007,
 189 for the fiscal year ending September 30, 2007, for payment no
 190 later than June 30, 2008, and each June 30 annually thereafter.
 191 The City shall not be required to make contributions toward the
 192 13th check program.

193 (2) Notwithstanding any other provision of this contract,
 194 commencing October 1, 1998, employees covered under this
 195 contract shall continue to contribute pursuant to Section 2 at

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196 the rates required for employees to fund the normal annual cost
197 of benefits, other than benefits arising from post retirement
198 adjustments made pursuant to Section 23 and other than benefits
199 arising from the 13th check program made pursuant to this
200 section, plus an additional 100 percent of 9.874 percent of the
201 full scale contribution rate (FSCR) set forth in Section 2(D) to
202 the 13th check program. Employee contributions to the 13th check
203 shall cease effective for earnings paid on the last pay date
204 immediately prior to October 1, 2001.

205 (C) Amount of the 13th Check - The amount of the 13th
206 check shall be determined as follows:

207 (1)(a) The amount of the 13th check shall be the same for
208 all retired members, regardless of years of service, age, years
209 retired, or monthly installment.

210 (b) All eligible surviving spouses shall be entitled to 50
211 percent of what the eligible retired member would have received
212 but for death.

213 (c) If a retired member is eligible on October 1 but dies
214 before payment of the 13th check by the following June 30, the
215 retired member's spouse shall receive the full amount of the
216 payment, and if there is no surviving spouse, the retired
217 member's designated beneficiary or beneficiaries, or if none,
218 the retired member's estate shall receive the payment.

219 (2) The Board of Trustees shall establish by rule adopted
220 no later than May 31, 2002 and each May 31 thereafter, the
221 amount of the 13th check funded pursuant to Section 27(B)(1),
222 subject to the following:

223 (a) The amount of the 13th check, or a method for
 224 calculating the amount of the 13th check in a manner that is
 225 definitely determinable and in accordance with the requirements
 226 of the Internal Revenue Code applicable to a qualified
 227 governmental plan; and

228 (b) Certification by the Fund's actuary that the amount of
 229 the payment will be funded on a sound actuarial basis as
 230 required by Section 14, Article X of the State Constitution.

231 (D) Conflict of Laws - To the extent that any provision of
 232 this section is in conflict with sections 112.60-112.67, Florida
 233 Statutes, or those provisions of chapters 175 and 185, Florida
 234 Statutes, that apply to local law plans established by municipal
 235 ordinance or special act, or provisions of Florida Statutes made
 236 applicable to pension funds established by special act, or to
 237 the extent that any provision of this section would result in
 238 the loss of tax exempt status of the Pension Fund, the Board of
 239 Trustees is hereby delegated the authority to adopt by rules
 240 changes to this section in order to comply with said laws, which
 241 shall have the force of law and shall be considered part of this
 242 pension contract.

243 (E) Administration of Program - The Board of Trustees
 244 shall make such rules as are necessary for the effective and
 245 efficient administration of this section, provided that such
 246 rules are not inconsistent with the terms of any collective
 247 bargaining agreement entered into by the City and the certified
 248 bargaining agents for firefighters and police officers
 249 concerning the 13th Check Program. Notwithstanding any other
 250 provision of this section to the contrary, any provision of this

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251 section shall be construed and administered in such manner that
252 such program will qualify as a qualified governmental pension
253 plan under existing or hereafter enacted provisions of the
254 Internal Revenue Code of the United States, and the Board of
255 Trustees may adopt any rule to accomplish the purpose of this
256 section as is necessary to retain tax qualification, which rules
257 shall have the force of law and shall be considered part of this
258 pension contract.

259 Section 3. The changes to the pension contract in this act
260 for firefighters and police officers who are active members of
261 the City Pension Fund for Firefighters and Police Officers in
262 the City of Tampa on or after October 1, 2012, shall be made
263 available in a supplemental pension contract, and an individual
264 shall not be permitted to select some of said changes and reject
265 other of said changes. Any firefighter or police officer who is
266 entitled to benefits under the City Pension Fund for
267 Firefighters and Police Officers in the City of Tampa who is
268 actively employed as a firefighter or police officer in the City
269 of Tampa on or after October 1, 2012, shall have the opportunity
270 to sign such supplemental pension contract before October 1,
271 2012. However, any person who becomes a member of the City
272 Pension Fund for Firefighters and Police Officers in the City of
273 Tampa on or after October 1, 2012, shall be required as a
274 condition of membership into said Pension Fund to sign a pension
275 contract which includes the provisions of this act, and shall be
276 required to make contributions if required as a result of such
277 benefits.

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278 Section 4. The City of Tampa Firefighters and Police
279 Officers Pension Contract as prescribed by Section 28-17 of the
280 City of Tampa Code [Ordinance No. 4746-A, enacted September 30,
281 1969], as amended by Section 28-19 of the City of Tampa Code
282 [Ordinance No. 6038-A, enacted September 17, 1974], pursuant to
283 chapter 74-613, Laws of Florida; as further amended by Ordinance
284 No. 89-314, enacted December 21, 1989, and approved, ratified,
285 validated, and confirmed by chapter 90-391, Laws of Florida; as
286 further amended by chapter 92-231, Laws of Florida, chapter 94-
287 463, Laws of Florida, chapter 98-515, Laws of Florida, chapter
288 2000-485, Laws of Florida, Ordinance No. 2001-133, enacted July
289 3, 2001, chapter 2001-288, Laws of Florida, chapter 2002-369,
290 Laws of Florida, Ordinance No. 2003-22, enacted January 23,
291 2003, chapter 2004-427, Laws of Florida, chapter 2007-304, Laws
292 of Florida, and chapter 2011-240, Laws of Florida, is in all
293 other respects approved, ratified, validated, and confirmed.

294 Section 5. If any provision of this act or its application
295 to any person or circumstance is held to be invalid, the
296 invalidity shall not affect other provisions or applications of
297 this act which can be given effect without the invalid provision
298 or application, and to this end the provisions of this act are
299 severable.

300 Section 6. This act shall take effect October 1, 2012.