

By Senator Joyner

18-00923-12

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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 to
20 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
29 the City of Tampa Code [Ordinance No. 6038-A, enacted September

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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
43 his life or later die from injuries or causes occurring while in
44 the discharge of his duties, and shall leave a widow or widower,
45 or child or children under the age of eighteen (18) years, or
46 age twenty-three (23) if a full-time student, the Board shall
47 authorize and direct payment of a pension to the widow or
48 widower and/or child or children, but only in the following
49 amounts and on 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
57 Pension Fund who prior to October 16, 1992, was a member of
58 Division B of the General Employees Pension Plan as established

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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~~
85 ~~half~~ per centum (15% ~~7-1/2%~~) of the final year's earnings,
86 computed from date of death, subject to a limitation of a total
87 of ninety-five ~~sixty-five~~ per centum (95% ~~65%~~) of final yearly

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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% ~~7-1/2%~~) 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 minor
103 children, to the extent required by the Florida Statutes, in the
104 event of the death of a member prior to retirement, the member's
105 designated beneficiary shall be entitled to the benefits
106 otherwise payable to the member at normal retirement age for ten
107 (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

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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 a
122 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
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

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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 the
156 Fund, which shall consist of those employees' contributions set
157 forth in subparagraph 27(B)(2) in excess of those contributions
158 otherwise required by Section 2 for the normal annual cost of
159 benefits, other than benefits arising from post retirement
160 adjustments made pursuant to Section 23 and other than benefits
161 arising from the 13th Check Program, plus any interest earnings
162 thereon up to and including September 30, 2001. Effective for
163 earnings paid on the first pay date after October 1, 2001,
164 employee contributions to the 13th Check account shall cease,
165 and the 13th Check Account shall be funded by investment returns
166 in excess of 10% (limited to 3%) on the base plan liabilities
167 for persons eligible for the 13th check. For purposes of this
168 Section, the "base plan" shall mean those assets of the Fund
169 excluding the Post Retirement Adjustment Account, DROP account
170 assets, and the 13th check account. The amount available for the
171 13th check shall be calculated as of fiscal year end commencing
172 September 30, 2001 for the fiscal year ending September 30, 2001
173 for payment no later than June 30, 2002, and each June 30
174 annually thereafter; provided, however, the calculation of the

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

192 (2) Notwithstanding any other provision of this contract,
193 commencing October 1, 1998, employees covered under this
194 contract shall continue to contribute pursuant to Section 2 at
195 the rates required for employees to fund the normal annual cost
196 of benefits, other than benefits arising from post retirement
197 adjustments made pursuant to Section 23 and other than benefits
198 arising from the 13th check program made pursuant to this
199 section, plus an additional 100 percent of 9.874 percent of the
200 full scale contribution rate (FSCR) set forth in Section 2(D) to
201 the 13th check program. Employee contributions to the 13th check
202 shall cease effective for earnings paid on the last pay date
203 immediately prior to October 1, 2001.

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

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

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

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

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

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

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

230 (D) Conflict of Laws - To the extent that any provision of
231 this section is in conflict with sections 112.60-112.67, Florida
232 Statutes, or those provisions of chapters 175 and 185, Florida

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233 Statutes, that apply to local law plans established by municipal
234 ordinance or special act, or provisions of Florida Statutes made
235 applicable to pension funds established by special act, or to
236 the extent that any provision of this section would result in
237 the loss of tax exempt status of the Pension Fund, the Board of
238 Trustees is hereby delegated the authority to adopt by rules
239 changes to this section in order to comply with said laws, which
240 shall have the force of law and shall be considered part of this
241 pension contract.

242 (E) Administration of Program - The Board of Trustees shall
243 make such rules as are necessary for the effective and efficient
244 administration of this section, provided that such rules are not
245 inconsistent with the terms of any collective bargaining
246 agreement entered into by the City and the certified bargaining
247 agents for firefighters and police officers concerning the 13th
248 Check Program. Notwithstanding any other provision of this
249 section to the contrary, any provision of this section shall be
250 construed and administered in such manner that such program will
251 qualify as a qualified governmental pension plan under existing
252 or hereafter enacted provisions of the Internal Revenue Code of
253 the United States, and the Board of Trustees may adopt any rule
254 to accomplish the purpose of this section as is necessary to
255 retain tax qualification, which rules shall have the force of
256 law and shall be considered part of this pension contract.

257 Section 3. The changes to the pension contract in this act
258 for firefighters and police officers who are active members of
259 the City Pension Fund for Firefighters and Police Officers in
260 the City of Tampa on or after October 1, 2012, shall be made
261 available in a supplemental pension contract, and an individual

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

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

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291 other respects approved, ratified, validated, and confirmed.

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

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