

House Bill No. 1037

An act relating to the City of Tampa, Hillsborough County, and particularly to the City Pension Fund for Firefighters and Police Officers in the City of Tampa; authorizing the City of Tampa to enter into a supplemental contract with certain firefighters and police officers to revise the benefit reduction provisions of said Pension Fund; providing for the purchase of creditable service in said Pension Fund for past service; amending chapter 23559 (1945), Laws of Florida, as amended, relating to the General Employees' Pension Plan of the City of Tampa; revising the benefits to certain firefighters and police officers; providing that the act is contingent upon execution of a contract between the city and the bargaining agents for the firefighters and police officers; providing that active firefighters and police officers must execute certain supplemental contract provisions by a date certain or forever be barred from doing so; confirming in part the City of Tampa Firefighters and Police Officers Pension Contract; providing an effective date.

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

Section 1. The City of Tampa is authorized and empowered to enter into a supplemental contract with each and every firefighter or police officer who is an active or contributing member of the City Pension for Firefighters and Police Officers in the City of Tampa on or after the date this act becomes a law, or who hereafter enters into a pension contract with the City, amending Section 7(A), (B), and (C), Section 8(A), and Section 9(A) and (C), and creating Section 28 of the City of Tampa Firefighters and Police Officers Pension Contract as prescribed by Section 28-17 of the City of Tampa Code [Ordinance No. 4746-A, enacted September 30, 1969], as amended by Section 28-19 of the City of Tampa Code [Ordinance No. 6038-A, enacted September 17, 1974], pursuant to chapter 74-613, Laws of Florida, as further amended by Ordinance No. 89-314, enacted December 21, 1989, and approved, ratified, validated, and confirmed by chapter 90-391, Laws of Florida; and as further amended by chapter 92-231, Laws of Florida, chapter 94-463, Laws of Florida, chapter 98-515, Laws of Florida, chapter 2000-485, Laws of Florida, and chapter 2001-288, Laws of Florida, to read:

Section 7. BENEFITS, PENSIONS TO MEMBERS.

(A) Any member of the Fund having an aggregate of 10 years of service as defined in Section 17 in said departments, and having reached the age of 46 years, who then shall receive in monthly installments a pension equal to 25 percent of the member's average earnings for the three (3) highest years within the last 10 years of service with a minimum pension of \$100 per month. For each additional year of such service after 10 years, a member shall receive 2.5 percent of average earnings, not to exceed a total pension of 100 percent of said average earnings. After 10 years of service as defined in Section 17, this pension right shall be a vested right with the payment thereof to begin upon the employee's separation from the service or the

employee's reaching the age of 46 years, whichever occurs later, so that an employee having 10 or more years of such service who resigns, retires, or is otherwise separated from the service prior to reaching the age of 46 years may elect to allow his contributions to remain in the Pension Fund and upon reaching the age of 46 years shall be entitled to commence receiving a pension based upon his service as herein provided, and should such employee die before reaching 46 years of age, then at the time that decedent would have reached 46 years of age the widow or widower shall receive such benefit as the widow or widower would have received under subparagraph 9(C) if the employee had died while receiving a pension. Provided however, any member of the Pension Fund who prior to October 16, 1992, was a participant of Division B of the General Employees Pension Plan as established by chapter 81-497, Laws of Florida, as amended, shall receive benefits from this Pension Fund at the rate of 2.5 percent of average earnings for each year of service in this Pension Fund, provided however, the 2.5 percent accrual shall not apply to any service while the member was a participant of Division B of the General Employees Pension Plan; provided, further, that, upon reaching social security normal retirement age, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board to 60 percent of the initial benefit amount.

(B) Any member who in the service has received or shall receive within or without the city any injuries, disease or disability, which injury, disease or disability now permanently incapacitates him physically or mentally from regular and continuous duty as a firefighter or police officer, then he shall receive in equal monthly installments an amount equal to 65% of monthly salary in effect at date of disability retirement with a minimum of \$100.00 per month, plus $\frac{1}{12}$ of any other earnings received within one year prior to date of disability retirement. Any injury, disease or disability received prior to becoming a member of this Pension Fund, which injury, disease or disability later permanently incapacitates the member, physically or mentally from regular and continuous duty as a firefighter or police officer, shall not qualify for benefits herein. For any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under

this Fund to sixty per centum (60%) of the initial benefit amount; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(C) Any member of the fund who has completed ten (10) years of creditable service and becomes permanently incapacitated, physically or mentally, from regular and continuous service as a firefighter or police officer as a result of any injury, disease or disability which is not incurred in the service of the City, shall receive in equal monthly installments an amount equal to the greater of (1) 2% of his average salary (as above computed) for each year of service with a minimum of 25% and a maximum of 50% of average salary or (2) the accrued benefit under Section 7(A) based upon years of service and average salary determined as of the date of disability. Any injury, disease or disability received prior to becoming a member of this Fund, which injury, disease or disability later permanently incapacitates the member, physically or mentally from regular and continuous duty as a firefighter or police officer, shall not qualify for benefits herein. For any member of this Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age, or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund to sixty per centum (60%) of the initial benefit amount; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

Section 8(A) To the widow or widower in equal monthly installments an amount equal to fifty per centum (50%) of the member's final year's earnings, computed from date of death, until death. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a

member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28(C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board to sixty per centum (60%) of the initial benefit amount paid to the widow or widower.

Section 9(A) To the widow or widower in equal monthly installments sixty-five per centum (65%) of the service retirement pension earned by the member at date of death. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28(C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board to sixty per centum (60%) of the initial benefit amount paid to the widow or widower.

(C) The widow or widower of a member who dies while receiving a retirement pension shall receive sixty-five per centum (65%) of the pension which the member was receiving; provided, however, that no pension shall be allowed to any widow or widower unless she or he was married to the member prior to the date of retirement of the member. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the

reaching social security normal retirement age, except as provided in Section 28(C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board to sixty per centum (60%) of the initial benefit amount paid to the widow or widower.

Section 28. ELECTION TO PURCHASE PAST CREDITABLE SERVICE BY CERTAIN FIREFIGHTERS AND POLICE OFFICERS.

(A) Each firefighter and police officer who, on October 15, 1992, was a member in Division B of the General Employees' Pension Plan for the City of Tampa, who became a member of this Fund for service occurring on and after October 16, 1992, and who is a member of this Fund on or after June 1, 2002, may elect to purchase creditable service under this Pension Contract for service as a firefighter or police officer with the City of Tampa prior to October 16, 1992, if said employee complies with the following:

(1) Notify the City of Tampa and the Board of Trustees of this Fund, in writing, at any time between July 1, 2002, and December 31, 2002, of his or her desire to purchase creditable service for all or any portion of such past service and the time period of such service to be purchased;

(2) Upon electing to purchase creditable service for such past service, submit on a form required by the City an irrevocable waiver of any pension benefits under the General Employees' Pension Plan for the City of Tampa, which waiver shall apply only to the time period of such service to be purchased; and

(3) By September 30, 2003, pay into the Pension Fund a sum of money equal to the aggregate employee contributions, plus compound interest thereon at a rate as determined by the Board, which the employee would have paid into the Fund pursuant to Section 2(D) of this Contract, had the employee participated in the Fund during the period of such prior service that said employee has elected to purchase.

(B) For each firefighter and police officer electing to purchase creditable service for past service as provided in this section, the City shall pay into the Pension Fund, by September 30, 2003, a sum of money equal to the City contributions, plus compound interest thereon at the rate determined by the Board pursuant to Section 28(A)(3), which the City would have paid into the

Fund for such firefighters and police officers pursuant to Section 2(B) and (C) of this Contract, had such firefighters and police officers participated in the Fund during the period of such prior service that such firefighters and police officers have elected to purchase.

(C) Benefits for creditable service purchased by firefighters and police officers pursuant to this section shall be calculated in the same manner as are such firefighters' and police officers' benefits for creditable service commencing on October 16, 1992, provided that there shall be no reduction in benefits for such creditable service purchased as otherwise required pursuant to Section 7(A), (B), or (C), Section 8(A), or Section 9(A) or (C) of this Contract.

(D) The Board of Trustees shall make such rules as are necessary for the effective and efficient administration of this section, provided that such rules are not inconsistent with the terms of any collective bargaining agreement entered into by the City and the certified bargaining agents for firefighters and police officers. Notwithstanding any other provision of this section to the contrary, any provision of this section shall be construed and administered in such manner that such program will qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United States, and the Board of Trustees may adopt any rule to accomplish the purpose of this section as is necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this pension Contract.

Section 2. Section 21 of chapter 23559 (1945), Laws of Florida, as amended, is amended to read:

Section 21. Pension Benefits; Certain Firefighters and Police Officers.

Notwithstanding any other provision of this Act to the contrary, the following provisions shall apply only to those firefighters and police officers who prior to October 16, 1992, (the effective date of the Older Workers Benefit Protection Act [the "OWBPA Effective Date"] were participants in Division B of the Plan and who ~~became~~ become members of the City Pension Fund for Firefighters and Police Officers in the City of Tampa as of the OWBPA Effective Date pursuant to chapter 94-463, Laws of Florida:

(1) Longevity retirement, deferred pension, early retirement and death benefits accrued as of the OWBPA Effective Date shall be computed by using only that period of Service prior to the OWBPA Effective Date as members of Division B of the Plan and shall be paid to, or paid on behalf of, each such firefighter or police officer on and after the OWBPA Effective Date as set forth under the terms of this Act.

(2) Death benefits payable on behalf of any such firefighter or police officer shall be provided only as set forth in subparagraphs 2, 3, and 4 of Section 12(B) of this Plan; provided, however, that if a death benefit is paid under the City Pension Fund for Firefighters and Police Officers in the City of Tampa on behalf of any such firefighter or police officer on account of death resulting from injuries or causes occurring while in the discharge of

duty as a firefighter or police officer, then no death benefit shall be paid on behalf of such firefighter or police officer under this Act.

(3) Disability benefits shall not be paid to any such firefighter or police officer after the OWBPA Effective Date.

(4) For purposes of determining the minimum number of years necessary to have a vested pension and the Normal Retirement Date of any such firefighter or police officer, Service after the OWBPA Effective Date shall be counted as Continuous Service under this Act.

(5) The Average Monthly Salary of each such firefighter or police officer shall be determined by calculating the average of such firefighter's or police officer's salary for the highest 3 of the last 10 years of participation in Division B of the Plan prior to the OWBPA Effective Date, and dividing by 12; provided, however, that in the event such firefighter or police officer does not have 10 years of participation in Division B of the Plan prior to the OWBPA Effective Date at the time his Average Monthly Salary is calculated, the average for the highest 3 of the total number of years of participation in Division B of the Plan prior to the OWBPA Effective Date, shall be used; provided, further, that if such firefighter or police officer does not have 3 years of participation in Division B of the Plan prior to the OWBPA Effective Date, the average for years of such participation shall be used.

(6) Notwithstanding any other provision of this Act to the contrary, for purposes of determining the longevity retirement, deferred pension, early retirement, death benefits, and average monthly salary of each such firefighter or police officer, service prior to the OWBPA Effective Date shall not be included to the extent that such firefighter or police officer purchases creditable service under the City Pension Fund for Firefighters and Police Officers in the City of Tampa for service as a firefighter or police officer with the City of Tampa prior to the OWBPA Effective Date.

Section 3. This act is only an enabling act, and the execution by the City of Tampa of the aforesaid supplemental contract and entitlement to the pension benefits referred to in this act for all firefighters and police officers, regardless of whether or not in the respective certified bargaining unit for firefighters or police officers, and the effectiveness of this act, is contingent upon contractual agreement through the collective bargaining process between the City of Tampa and the respective certified bargaining agents for firefighters and police officers.

Section 4. The benefits provided in this act and the changes to the pension contract provided for in this act for active and contributing members of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on the date this act becomes a law and any other benefits or pension contract changes for active and contributing members of the City Pension Fund for Firefighters and Police Officers in the City of Tampa provided for in any other special act adopted by the Florida Legislature in the year 2000, year 2001, or year 2002 Legislative Sessions shall be made available in one or more supplemental pension contracts, and a member shall not be permitted to select some of said benefits or changes and reject others of said benefits or changes. Any active or contributing member of the City Pension

Fund for Firefighters and Police Officers in the City of Tampa on the date this act becomes a law who fails to sign said supplemental pension contract before October 1, 2002, shall be forever barred from receiving said benefits. However, any person who becomes a member of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on or after the date this act becomes a law shall be required as a condition of membership into said pension fund to sign a pension contract which includes the provisions of this act, and shall be required to make the contributions required as a result of such benefits.

Section 5. The City of Tampa Firefighters and Police Officers Pension Contract as prescribed by Section 28-17 of the City of Tampa Code [Ordinance No. 4746-A, enacted September 30, 1969], as amended by Section 28-19 of the City of Tampa Code [Ordinance No. 6038-A, enacted September 17, 1974], pursuant to chapter 74-613, Laws of Florida; as further amended by Ordinance No. 89-314, enacted December 21, 1989, and approved, ratified, validated, and confirmed by chapter 90-391, Laws of Florida; and as further amended by chapter 92-231, Laws of Florida, chapter 94-463, Laws of Florida, chapter 98-515, Laws of Florida, chapter 2000-485, Laws of Florida, and chapter 2001-288, Laws of Florida, is in all other respects approved, ratified, validated, and confirmed.

Section 6. This act shall take effect June 1, 2002.

Approved by the Governor May 15, 2002.

Filed in Office Secretary of State May 15, 2002.