

House Bill No. 1089

An act relating to the City of Clearwater, Pinellas County; amending chapter 30658 (1955), Laws of Florida, as amended; updating terminology; revising the interval at which actuarial valuations of the city's fire pension fund shall be made; providing eligibility for election to the board of trustees of the fire pension fund; providing that board members may be appointed in certain circumstances; removing a requirement for payment of certain warrants; providing an effective date.

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

Section 1. Chapter 30658 (1955), Laws of Florida, as amended, is amended to read:

Section 1. Creation of fund; contributions; transfer of property to trustees; tax authorized.—

(1) There is hereby created a fund to be known as the pension fund of the Fire Department of the City of Clearwater, ~~Florida~~. Each member of the fire department, as defined ~~in~~ by section 2 of this act shall pay into said fund 6 ~~six~~ percent of his or her salary each month, the same to be deducted by the director of finance and deposited with said fund for the purpose of assisting in the payment of benefits to be paid by this act; provided that no firefighter ~~fireman~~ shall be required to contribute more than 6 ~~six~~ percent of a salary equivalent to that received by a firefighter ~~fireman~~ holding the rank of captain.

(2) All right, title, and interest in and to said fund, assets, and securities of the fire pension fund collected under the provisions of chapter 175, Florida Statutes, shall be divided on a pro rata ~~pro-rata~~ basis between the firefighters ~~firemen~~ of the City of Clearwater participating under this act and fund and all other firefighters ~~firemen~~ employed by the City of Clearwater, and said pro rata ~~pro-rata~~ portion of said moneys shall be deposited into this fund.

(3) The City of Clearwater, ~~Florida~~, shall levy, assess, and collect a tax upon all property in the City of Clearwater in the same manner as other taxes are levied, assessed, and collected not to exceed six-tenths ($\frac{6}{10}$) of one mill, the same to be used with the members' annual contributions heretofore provided for, and such other contributions as the fund may receive from any source including earnings on the assets held by the pension fund. Such assessment and tax shall commence as of the first taxable year after the effective date of this act and shall continue for a period of 35 ~~thirty-five~~ (35) years thereafter, except as herein otherwise provided; however, the rate of assessment and tax for the first 10 ~~ten~~ (10) years from the effective date of this act shall be six-tenths ($\frac{6}{10}$) of one mill, except as herein otherwise provided.

(4) If at any time subsequent to the effective date of this act there shall be a total reassessment of all taxable real property and improvements thereon within the corporate limits of the City of Clearwater, then effective commencing with the first taxable year thereafter the millage rate of the tax that the city shall levy, assess, collect, and contribute to the fund shall be automatically reduced and shall remain at the same rate unless subsequently reduced by other reassessments or changed as herein otherwise provided.

(5) The formula for reducing the millage rate of the tax will be based on the assessed value of all taxable property in the City of Clearwater for the calendar year immediately preceding the year in which the reassessment takes effect. The estimated value of new construction and annexed real property that was added to the tax assessment roll will be deducted from the reassessed taxable value and the difference between the remaining value and the taxable value of the preceding year shall be computed as a percentage of increased valuation that has been realized directly because of the reassessment, and that percentage shall be applied to reduce the six-tenths ($\frac{6}{10}$) of one mill proportionately. In estimating the value of new construction and annexed property, historical trends, building permits, and actual annexation shall be used.

(6) If homestead exemption from ad valorem real property taxes is eliminated by competent authority, then the applicable millage rate of the tax to be levied by the city, or the equivalent thereof, shall be applied to the total assessment rolls of all taxable property within the city adjusted by deducting therefrom the increase in value on said rolls caused by the elimination of said homestead tax exemption.

(7) If any funds or assets remain in the pension fund after the satisfaction of all required pension payments and expenses, then such funds and assets shall be paid over and transferred to and become a part of the pension fund for the general employees of the City of Clearwater.

(8) ~~Sec. 1A. Actuarial review and valuation of plan.~~ Actuarial valuations of the fund shall be made at intervals of not more than 2 ~~two (2)~~ years during the first 10 ~~ten (10)~~ years commencing with the effective date of this act; thereafter, actuarial valuations shall be made at intervals of not more than 3 years on an annual basis. Such actuarial valuations shall be made by a professional actuarial firm mutually agreed upon between the city and the trustees of said fund. If the city and the trustees cannot agree upon the actuarial firm to be hired within 90 ~~ninety (90)~~ days after interviewing prospective actuarial firms, a firm shall be selected by lot. If selection by lot is used, the city shall choose two (2) firms and the trustees two (2) firms. The firm then selected shall be that firm whose name is drawn from the names of the four (4) firms previously selected.

(9) Beginning with the actuarial valuation made at the end of the 10th ~~tenth (10th)~~ year after the effective date of this act and after each valuation made after that date, the trustees of said fund and the city shall review the valuations to determine if the original 35 ~~thirty-five (35)~~ years of contributions by the city will still be necessary. If the actuarial valuations indicate

that a shorter time of funding is necessary to fund the amended benefits of the plan, the city will have the option to either reduce the millage or shorten the number of years that contributions will be made. Should the city elect to do either of the above, and at a later date, it is determined by one of the actuarial valuations that the amount being contributed by the city will not properly fund the benefits provided by the plan, the city shall increase its contributions to the maximum six-tenths ($\frac{6}{10}$) of one mill, or the adjusted rate thereof pursuant to the procedure set forth in this section ~~1 hereof~~ because of an overall tax reassessment of property, whichever is less, for whatever period the deficit continues to exist. If the actuarial valuation made after the first ~~10-year~~ ten (10)-year period or any subsequent valuation indicates that the equivalent of six-tenths ($\frac{6}{10}$) of one mill or the adjusted rate thereof pursuant to the procedure set forth in this section ~~1 hereof~~ because of an overall tax reassessment of property, whichever is less, contributed by the city for the period of ~~35~~ thirty-five (35) years will not properly fund the amended benefits provided by the plan, or if the funds on reserve at any time should become insufficient to pay the benefits provided by the plan, then the city shall provide funds from non-ad valorem revenues of the City of Clearwater to pay all such benefits for so long as any person is entitled to compensation under this act.

Section 2. Definitions.—~~As~~ When used in this act, the term chapter:

(1)(a) ~~The term~~ “City” shall mean the City of Clearwater, ~~Florida.~~

(2)(b) ~~Wherever the word~~ “Board” appears in this act it shall mean the board of trustees, and their successors in office, established by the provisions of this act for the purpose of performing the duties and exercising the powers herein granted to said board.

(3)(c) ~~The term~~ “Firefighters” “firemen” as used in this act shall be construed as including all officers and firefighters ~~firemen~~ regularly employed in the Fire Department of the City of Clearwater, ~~Florida~~, who have been certified to permanent status by the civil service board of the City of Clearwater, and excluding the staff assistants ~~secretaries, stenographers~~ and other civilian employees.

(4)(d) ~~The term~~ “Fund” as used in this act shall mean the pension and benefit fund herein established.

(5)(e) ~~The term~~ “Service” as used in this act shall mean the period during which a person is an active member of the fire department, qualified under the civil service rules of the City of Clearwater, ~~Florida~~, except where said word is used clearly to designate military service in the Armed Forces of the United States of America.

(6)(f) ~~The term~~ “Permanently disabled” shall mean a disability which arises from sickness or accident and is of such nature that the member sustaining such disability is unable to perform the duties ordinarily required of a member of the fire department and from which the said member is not expected to recover sufficiently to carry on the duties ordinarily required of a member of the fire department.

(7)(g) ~~The term “Members of the fire department” shall be construed as including all officers and firefighters firemen regularly employed in said department, who have been certified to permanent status by the civil service board of said city, provided, however, the staff assistants secretaries, stenographers and other civilian employees shall not be covered by the provisions of this act.~~

Section 3. Members participating.—Notwithstanding any other provisions to the contrary, the provisions of this act shall only apply to firefighters firemen or members of the fire department employed in said department prior to July 1, 1963. All members in the service of the fire department at the time this act becomes law shall receive the benefits of the time of service previous to the passage of this act.

Section 4. Credit for members of armed forces.—Any member of the fire department covered by this act, who is drafted into the armed forces of the United States at any time or who voluntarily enlists during the time the United States is engaged in war, shall receive full credit towards retirement for all time spent in the service while a member of the fire department,; provided that he or she does not voluntarily reenlist re-enlist, and further provided that his or her separation from the United States service is of an honorable nature.

Section 5. Board of trustees;— election, appointment, membership, terms of office.—The board of trustees of said fund shall consist of the mayor, who shall be chairperson chairman, the chief of the fire department, and three (3) members of the said department either active or retired under said pension plan. The election of members from the department shall be held no later than ~~on~~ the 15th day of June of each year. The persons eligible to vote are, and only members of the fire department of the City of Clearwater, Florida, either active or retired and participating under this plan. In the event that no member of the plan is available to stand for election, then a current firefighter of the fire department below the rank of chief who is willing to serve shall be placed on the ballot. In the event that no one is available to stand for election, or in the event that no one is available to participate in the voting, then members of the board will be appointed by the city council from membership of the city council, shall be entitled to vote in such election. Members of the board so elected or appointed shall take office on the 1st day of July of each year. Initial ~~so-elected~~ members shall serve as follows: one for 1 one (1) year, one for 2 two (2) years, and one for 3 three (3) years. The elected or appointed members each year shall serve for a 3-year three (3) year term. Any vacancy on said board, caused by the death, resignation, or dismissal of any of the elected members shall be filled by an election or appointment as above provided.

Section 6. Investment powers.—The board of trustees shall have the power to:

(1)~~1~~. Invest and reinvest the assets of the pension fund of the Fire Department of the City of Clearwater, ~~Florida~~, in annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the pension

fund of the fire department shall be entitled under the provisions of this act, and pay the initial and subsequent premiums thereon.

(2)2. Invest and reinvest the assets of the pension fund of the fire department in:

(a)a. Time or savings accounts of a national bank, a state bank insured by the Federal Deposit Insurance Corporation, or a savings, building, and loan association insured by the Federal Savings and Loan Insurance Corporation.

(b)b. Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States.

(c)c. County bonds containing a pledge of the full faith and credit of the county involved, bonds of the Florida development commission, or of any other state agency, which have been approved as to legal and fiscal sufficiency by the State Board of Administration.

(d)d. Obligations of any municipal authority issued pursuant to the laws of this state; provided, however, that for each of the 5 ~~five~~ years next preceding the date of investment the income of such authority available for fixed charges, shall have been not less than 1½ ~~one and one-half~~ times its average annual fixed-charges requirements over the life of its obligations.

(e)e. Common stocks, preferred stocks and bonds, and other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state, or any ~~any~~ organized territory of the United States or the District of Columbia, provided:

1.(1) The corporation is listed on any one or more of the recognized national stock exchanges and holds a rating in one of the three highest classifications by a major rating service;

2.(2) The corporation has paid cash dividends for a period of 7 ~~seven~~ fiscal years next preceding the date of acquisition;

3.(3) The corporation fulfills either of the following standards:

a. Over the period of the 7 ~~seven~~ fiscal years immediately preceding purchase, the corporation must have earned after federal income taxes, an average amount per annum at least equal to two times the amount of the yearly interest charged upon its bonds, notes, or other evidences of indebtedness of equal or greater security outstanding at date of purchase, and earned after federal income taxes, an amount at least equal to two times the amount of such interest charges in each of the 3 ~~three~~ fiscal years immediately preceding purchase; or

b. The corporation over the period of 7 ~~seven~~ fiscal years immediately preceding purchase must have earned after federal income taxes, an average amount per annum at least equal to 6 percent ~~six per cent~~ of the par value of its bonds, notes, or other evidences of indebtedness of equal or greater security outstanding at date of purchase, and earned after federal income

taxes, an amount at least equal to 6 percent ~~six per cent~~ of the par value of such obligations in each of the 3 ~~three~~ fiscal years immediately preceding purchase. No investment shall be made under this sub-subparagraph ~~paragraph~~ upon which any interest obligation is in default or which has been in default within the immediately preceding 5-year ~~five-year~~ period; and

4.(4) The board of trustees shall not invest more than 1 percent ~~one per cent~~ of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed 1 percent ~~one per cent~~ of the outstanding capital stock of that company; nor shall the aggregate of its investments under this section at cost exceed 60 percent ~~sixty per cent~~ of the fund's assets.

(3) The trustees in the performance of their duties are authorized to seek, obtain, and engage independent professional investment counsel and advice and to pay reasonable charges for said services.

Section 7. Approval of pension, relief, and benefit payments.—~~The board of trustees shall pay all warrants drawn on such fund, which shall be signed by the mayor of said pension fund counter-signed by the chief of the fire department. No pension, relief, or benefits shall be paid to any person out of said fund unless the same be approved by a majority vote of the board, but the board shall not refuse a pension or other benefits to any person who is qualified to receive a pension or other benefits under the terms of this act.~~

Section 8. Disability and death benefits unconnected with duty.—Members of the fire department with less than 20 ~~twenty (20)~~ years of service who shall have become permanently disabled when such disability was unconnected with the performance of his or her duty in the fire department, and not caused by his or her own willful ~~wilful~~ intent, shall, upon satisfaction of the board that he or she is so permanently disabled, receive as a pension the sum of 2½ percent ~~2½%~~ of the prevailing wage for the rank he or she holds ~~heeds~~ per month per each year of service, including a pro rata share for any part of a year's service. He or she shall also receive a children's benefit of 7½ percent ~~7½%~~ of the prevailing wage for the rank he or she holds for each of his or her children under the age of 18 ~~eighteen (18)~~ years at the time the member shall be so pensioned; providing, however, that said pension, including children's benefits, shall not exceed 50 percent ~~fifty per cent (50%)~~ of the prevailing wage for the rank the member held when pensioned. All of said sums shall be payable monthly. Upon the death of said member so pensioned, his or her surviving spouse ~~widow~~, provided the two were lawfully married ~~she was his wife~~ at the time the member he was pensioned, shall receive the same pension the member ~~he~~ was receiving at the time of the member's ~~his~~ death, not to exceed 25 percent ~~twenty-five percent (25%)~~ of the prevailing wage for the rank the member ~~he~~ held when pensioned. Children's benefits of 7½ percent ~~7½%~~ of the prevailing wage for the rank held by the member ~~he~~ at the time he or she was pensioned for each of his or her children under the age of 18 ~~eighteen (18)~~ years shall be paid to the person or persons having custody of said children, providing that the children's benefits, together with the surviving spouse's ~~widow's~~ pension, shall not exceed 50 percent ~~fifty per cent (50%)~~ of the prevailing wage for the rank the member ~~he~~ held when pensioned. In the event that all children are not in the

custody of the same person, the children's benefits shall be ~~prorated~~ prorated. The benefit provided for a child shall cease upon reaching the age of ~~18~~ eighteen (18) years, or upon being married.

Section 9. Death benefits.—If any member of the fire department ~~loses~~ shall lose his or her life in the performance of his or her duties, or as a direct result thereof, his or her surviving spouse widow shall receive the sum of ~~50 percent~~ fifty per cent (50%) of the prevailing wage for the rank ~~the member~~ he held when he or she died. Children's benefits of ~~7½ percent~~ 7½% of the prevailing wage for the rank held by the member at the time he or she died for each of his or her children under the age of ~~18~~ eighteen (18) years shall be paid to the person or persons having custody of said children, provided that the children's benefit, together with the surviving spouse's widow's pension, shall not exceed ~~60 percent~~ sixty per cent (60%) of the prevailing wage for the rank the member held when pensioned. In the event that all children are not in the custody of the same person, the children's benefits shall be ~~prorated~~ pro-rated. The benefit provided for a child shall cease upon reaching the age of ~~18~~ eighteen (18) years or upon being married.

Section 10. Disability benefits.—Any member who ~~becomes~~ shall become permanently disabled and whose, ~~which~~ said disability is directly caused by the performance of his or her duties, shall be entitled to a pension the sum of which shall be ~~60 percent~~ sixty per cent (60%) of the prevailing wage. Upon his or her death, the rights of his or her surviving spouse widow and children under the age of ~~18~~ eighteen (18) years shall be the same as provided for in section 9; provided, however, in order to be entitled to the surviving spouse's widow's benefits, the surviving spouse widow must have been the lawful spouse wife of the deceased at the time he or she was placed on pension. Any condition or impairment of health of a firefighter fireman caused by tuberculosis, hypertension, or heart disease resulting in total or partial disability or death shall be presumed to have been accidental and caused by and suffered in the line of duty unless the contrary is be shown by competent evidence; provided, however, that such firefighter fireman shall have successfully passed a physical examination before entering into such service, which examination failed to reveal any evidence of such condition.

Section 11. Beneficiaries of benefits unconnected with duty.—If any member of the fire department with less than ~~20~~ twenty (20) years of service ~~dies~~ shall die from causes unconnected with the performance of his or her duties, his or her surviving spouse widow and any children under the age of ~~18~~ eighteen (18) years of age, ~~if there be any~~, shall be entitled to the benefits provided for surviving spouses widows and children in section 8 hereof. If any member of the fire department with ~~20~~ twenty (20) years or more of service ~~dies~~ shall die from causes unconnected with the performance of his or her duties, his or her surviving spouse widow and any children under the age of ~~18~~ eighteen (18) years of age, ~~if there be any~~, shall be entitled to the benefits provided for surviving spouses widows and children in section 13 hereof.

Section 12. Retirement at age 65.—Any member now employed reaching the age of ~~65~~ sixty-five (65) years shall be retired and shall be entitled to a

pension the sum of 60 percent ~~sixty per cent (60%)~~ of the prevailing wage of the rank at which he or she retired, providing he or she held that rank for a period of at least 3 ~~three (3)~~ years immediately prior to the retirement, or his or her pension shall be based on the lowest rank he or she has held during the 3 ~~three (3)~~ years immediately preceding retirement. The above part of this section shall not pertain to chiefs, whose age limits are governed by civil service rules. Upon the death of the member receiving a pension under the provisions of this section, his or her surviving spouse ~~widow~~, providing the two were lawfully married ~~she was his lawful wife~~ at the time of the member's ~~his~~ retirement, shall receive 30 percent ~~per cent (30%)~~ of the prevailing wage of the lowest rank the member held during the 3 ~~three (3)~~ years immediately preceding his or her retirement. Children's benefits of 7½ percent ~~7½%~~ of the prevailing wage of the lowest rank held by the member during his or her last 3 ~~three~~ years of service for each of his or her children under the age of 18 ~~eighteen (18)~~ years shall be paid to the person or persons having custody of said children, providing that the children's benefits, together with the surviving spouse's ~~widow's~~ pension, shall not exceed 60 percent ~~sixty per cent (60%)~~ of the prevailing wage for the rank the member held when pensioned. In the event that all children are not in the custody of the same person, the children's benefits shall be prorated ~~pro-rated~~. The benefits provided for a child shall cease upon his reaching the age of 18 ~~eighteen (18)~~ years or upon being married.

Section 13. Retirement after 20 years' service and later.—(1) Any member of the fire department may retire after 20 ~~twenty (20)~~ years of active service and shall receive the sum of 50 percent ~~fifty per cent (50%)~~ of the prevailing wage of the lowest rank he or she held during the 3 ~~three (3)~~ years immediately preceding his or her retirement. Upon the death of said retired member, the surviving spouse ~~widow~~, providing the two were lawfully married ~~she was his lawful wife~~ at the time the member ~~he~~ was pensioned, shall receive 25 percent ~~twenty-five per cent (25%)~~ of the prevailing wage of the lowest rank the member held during the 3 ~~three (3)~~ years immediately preceding his or her retirement. Children's benefits of 7½ percent ~~7½%~~ of the prevailing wage of the lowest rank held by the member during his or her last 3 ~~three (3)~~ years of service for each of his or her children under the age of 18 ~~eighteen (18)~~ years shall be paid to the person or persons having custody of said children, providing that the children's benefits, together with the surviving spouse's ~~widow's~~ pension, shall not exceed 50 percent ~~fifty per cent (50%)~~ of the prevailing wage for the rank the member held when pensioned. In the event that all children are not in the custody of the same person, the children's benefits shall be prorated ~~pro-rated~~. The benefits provided for a child shall cease upon reaching the age of 18 ~~eighteen (18)~~ years or upon being married.

(2) Each member of the fire department will increase his or her pension by 2 ~~two percent (2%)~~ of the prevailing wage of the lowest rank he or she held during the 3 ~~three (3)~~ years immediately preceding retirement for each year of service in excess of 20 ~~twenty (20)~~ years, providing that in no case shall the retirement pension herein provided exceed 60 ~~sixty percent (60%)~~ of the prevailing wage of the lowest rank held by the member during the 3 ~~three (3)~~ years immediately preceding retirement. Upon the death of said member of over 20 ~~years' twenty (20)~~ years service, his or her surviving spouse

widow, providing the two were lawfully married ~~she was his lawful wife~~ at the time ~~the member he~~ retired, shall receive one-half ($\frac{1}{2}$) of the pension ~~the member would have been entitled to receive~~. Children's benefits of $7\frac{1}{2}$ percent ~~74%~~ of the prevailing wage for the rank held by the member at the time ~~he or she~~ was pensioned for each of his or her children under the age of ~~18 eighteen~~ (18) years shall be paid to the person or persons having custody of said children, providing that the children's benefits, together with the surviving spouse's ~~widow's~~ pension, shall not exceed the pension the member ~~himself~~ was receiving. In the event that all the children are not in the custody of the same person, the children's benefits shall be prorated ~~prorated~~. The benefits provided for a child shall cease upon reaching the age of ~~18 eighteen~~ (18) years of age or upon being married.

Section 14. Mother or father as beneficiary.—If there ~~is~~ be no surviving spouse ~~widow~~ of the deceased member entitled to benefits under this act, and there ~~is~~ shall be a mother or father who is entirely dependent upon said member for support, the member's ~~his~~ mother or father shall receive the same pension to which the surviving spouse ~~widow~~ would have been entitled.

Section 15. Cessation of pension to surviving spouse; continuation of benefits to children.—Any pension being paid to a surviving spouse ~~widow~~ hereunder shall cease upon his or her death or remarriage. No surviving spouse's ~~widow's~~ pension shall be paid to any surviving spouse ~~widow~~ unless he or she was the lawful spouse wife of the deceased member at the time ~~the member he~~ was placed on pension. This shall not be construed to mean that the pension provided for each of the children of the deceased under the age of ~~18 eighteen~~ (18) years of age shall cease by virtue of the remarriage of the surviving spouse ~~mother~~, but shall continue until the child or children shall reach the age of ~~18 eighteen~~ (18) years or marry or be legally adopted.

Section 16. Benefits not assignable nor subject to garnishment.—No pension or other benefits provided for herein shall be assignable or subject to garnishment for debts or other legal process.

Section 17. Pension for discharged members.—Members of the fire department who are eligible and entitled to a pension at the time charges are preferred against said member for removal from the fire department shall not be deprived of the pension to which he or she was entitled. Any member who has ~~shall have~~ served for 12 ~~Twelve~~ (12) years in the fire department and is who shall be discharged shall be entitled to a retirement pension upon the basis provided for in section 8 ~~of this act~~.

Section 18. Effect of judgment for damages against city.—Any judgment received by any member of the fire department or persons entitled to a pension under this act, against the City of Clearwater for damages on account of injury or death of a member of the fire department, shall thereby void all rights to a pension under this act. This shall not be a bar to a suit for damages. This section shall not be construed to affect proceedings under the Workers' Compensation Law ~~Workmen's Compensation Act of the State of Florida~~.

Section 19. Election to come within plan; discharge after 5 years' service.—

(1) Every employee of the fire department now under the present pension plan, acts of 1939, shall have ~~30 thirty~~ (30) days to reject the terms of this act, and, in the event of rejection, said member shall file with the chief of said department his or her objections in writing, and in the event of his or her failure to do so, shall be conclusively presumed to accept the terms of this act.

(2) All employees of said department employed after the act becomes a law shall be, as a condition of their employment, subject to all of the terms and provisions of this act. Any member of said department discharged or voluntarily leaving the service after a period of ~~5 five~~ (5) years, shall be entitled to a refund of 80 percent ~~eighty per cent~~ (80%) of all moneys ~~monies~~ deducted from his or her salary for said pension fund.

(3) Notwithstanding the above provision, any employee subject to the terms and provisions of this act may transfer such employee's contributions and interest earnings which have accrued during the period of time that such employee participated in the plan to the City of Clearwater Employees Pension Plan.

Section 20. Payments under prior plan.—

(1) All pensions heretofore granted by the board of trustees of the fire pension fund of the City of Clearwater, shall continue to be paid in accordance with the terms and provisions of said plan prior to this amendment [chapter 72-506, Laws of Florida].

(2) All pensions hereafter granted under the provisions of this plan shall be in accordance with the provisions of this act [chapter 72-506, Laws of Florida]. However, the total increase in pension payments to any firefighter ~~fireman~~ participating hereunder and commencing to receive retirement benefits after the effective date of this act [chapter 72-506, Laws of Florida] shall be limited to a maximum of 100 one hundred percent (~~100%~~) of the initial monthly pension payment provided under this plan. In no case shall a pension or any adjustment to a pension be calculated on the compensation of a rank higher than that of a captain. This shall not be a bar to a higher-ranking ~~higher ranking~~ officer receiving a pension, but will limit the amount of such pension or adjustment to that of a captain's rank.

Section 21. Qualifications of applicants for employment.—Applicants for appointment as members of the fire department must have been residents of the city for 1 one (~~1~~) full year, next prior to application for appointment. They must be an American citizen; they must stand physical examination by the city physician; they must not be over ~~35 thirty-five~~ (35) years of age; and they must be of good moral character and habits and have qualified themselves in accordance with such civil service rules as may be in force at the time of their application and appointment to the fire department; provided, however, this provision shall not apply to the chiefs of the fire department.

Section 22. Reexamination of pensioners.—Any member of the fire department who ~~has shall have~~ retired on pension due to permanent disability shall be subject to the call of the board for reexamination ~~re-examination~~, and if found able to perform active duty, the board shall have the power to, with the consent of the city manager and the chief of the fire department, compel the return of said member to the department, and said member so returned shall enjoy the same rights that he or she had at the time he or she was placed upon pension, and in the event the said member so ordered to return shall refuse to comply with the said order within 10 ten ~~(10)~~ days from issuance thereof, he or she shall forfeit his or her rights to his or her pension.

Section 23. Change of address; notice; determination of health recovery.—It shall be the duty of all persons on pension not granted by virtue of 20 twenty ~~(20)~~ years of service to file with the pension board the address of his or her residence and to immediately notify the said pension board of any change in said residence, if any there be. The pension board shall have the power to call any of such pensioners for examination to determine whether or not the said pensioner has recovered his or her health to the extent of being able to perform his or her former duties on the fire department, upon giving 30 days' ~~thirty (30) days~~ written notice of such recall for examination by registered letter addressed to the last address on file with the pension board. If said pensioner shall fail to submit himself or herself for such examination within the said 30-day ~~thirty (30) day~~ period, his or her pension shall be suspended until such time as the pensioner shall establish before the said board that he or she is still entitled to the pension he or she is receiving, and in the event the pensioner shall fail within 1 one ~~(1)~~ year to respond to said notice for examination and suspension of his or her pension, it shall be conclusively deemed that the said pensioner is not entitled to said pension and it shall be revoked and set aside.

Section 24. Cessation of benefits to children upon marriage.—Any benefits paid under the provisions of this act to children shall cease upon the marriage of said child or children or legal adoption of said child or children.

Section 25. Determination of credit while laid off or on pension.—If any member of the fire department shall be laid off due to reduction in the force or placed on pension not service-connected and then returned to the service, only the time during which said member was laid off or upon pension shall be deducted in computing the active service referred to in this act. Any member of the department who shall be placed on pension due to injury resulting from the performance of his or her duty, upon returning to the service he shall receive credit only for the active service actually rendered in said department in computing his or her active service.

Section 26. Repeal of conflicting law; exception.—All laws or parts of laws in conflict herewith be and the same are hereby repealed, except as provided by section 20 ~~of this act~~, and chapter 19112, Laws of Florida 1939, be and the same is hereby repealed.

Section See. 27. City obligated to provide funds from non-ad valorem sources.—Notwithstanding any other limitations and provisions contained

in chapters 30658, Laws of Florida, 1955, and 72-506, Laws of Florida, specifically including, but not limited to, the limitation of ~~35~~ thirty-five (35) years for the ad valorem tax funding of contributions to the pension fund by the City of Clearwater, it is hereby provided that it shall be the obligation of the City of Clearwater, if the assets on reserve in such pension fund, should, at any time, become insufficient to pay all of the payments and benefits provided for by the pension fund and plan, to contribute and provide funds from non-ad valorem revenues of the city to said fund in an amount sufficient to pay all such benefits as heretofore have accrued or may heretofore become payable under said laws for so long as any person shall be entitled to same. It is the intent of this section that the city guarantee from non-ad valorem tax revenue sources all benefits which would be payable under the plan at any time to the same extent as if such fund had assets available from member contributions sufficient for that purpose.

Section 28. Referendum.—This act shall not become effective until and unless the same be ratified by a majority of the qualified electors of the City of Clearwater, voting in an election called and held for the purpose of ratification or rejection thereof in the manner provided by law for the calling and holding of special elections in said city. In the event of ratification of this act, the same shall become effective immediately upon the official determination of said ratification. The submission of other measures for approval or rejection, at the same special election in which this act is submitted for ratification or rejection, shall in no way be considered to invalidate or render void the special election in which the ratification or rejection of this act is submitted.

Section 29. Severability.—If any section, paragraph, phrase, or sentence contained in this act shall be held inoperative, unconstitutional, or void by any court of competent jurisdiction, it shall in no way affect the remaining portions of said act.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 10, 2008.

Filed in Office Secretary of State June 10, 2008.