

## CHAPTER 2011-240

### Committee Substitute for House Bill No. 231

An act relating to the City Pension Fund for Firefighters and Police Officers in the City of Tampa, Hillsborough County; authorizing the City of Tampa to enter into a supplemental contract with certain firefighters and police officers to comply with chapter 2009-97, Laws of Florida; revising the manner in which elective trustees are elected; increasing the maximum length of time prior to term commencement in which to conduct trustee elections; allowing the board to retain the services of more than one nationally recognized professional investment counselor; increasing the investment cap on foreign securities; providing that the investment cap on foreign securities is measured on a market value basis and may not be revised, amended, increased, or repealed except as provided by general law; allowing retired members to elect to receive a reduced retirement benefit in order to provide a surviving spouse benefit under certain circumstances; allowing members to purchase up to an additional 5 years of credited service based upon prior service as a full-time certified firefighter or certified police officer or for military service in the Armed Forces of the United States subject to certain conditions; allowing DROP participants upon entering DROP and annually thereafter to elect an option for accruing annual interest at a low-risk variable rate selected annually by the board of trustees, in its sole discretion, in lieu of a rate reflecting the fund's net investment performance, as determined by the board of trustees; prohibiting members from selecting certain pension contract changes and rejecting others; confirming in part the City of Tampa Firefighters and Police Officers Pension Contract; providing for severability; 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 firefighter or police officer who was an active 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, or each firefighter or police officer who hereafter enters into a pension contract with the City, to comply with chapter 2009-97, Laws of Florida.

Section 2. Section 5(C), Section 6, Section 9(C), Section 17, and Section 26(D) 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, 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,

Ordinance No. 2001-133, enacted July 3, 2001, chapter 2001-288, Laws of Florida, chapter 2002-369, Laws of Florida, Ordinance No. 2003-22, enacted January 23, 2003, chapter 2004-427, Laws of Florida, and chapter 2007-304, Laws of Florida, are amended to read:

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

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

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

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

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

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

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

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

(3) That the portfolio, representing the principal or surplus funds of the Pension Fund may be invested in the following securities or other property, real or personal, including, but without being limited to, bonds, notes, or other evidences of indebtedness issued, or assumed or guaranteed in whole or in part by the United States or any of its agencies or instrumentalities; or by any foreign government or political subdivisions or agencies thereof; or by the State of Florida, or by any county, city, school district, municipal corporation, or other political subdivision of the State of Florida, both general and revenue obligations; in mortgages and other interests in realty; or in such corporation bonds, notes, or other evidences of indebtedness, and corporation stocks including common and preferred stocks, of any corporation created or existing under the laws of the United States or any of the states of the United States, or of any foreign government or political subdivisions or agencies thereof, provided that in making each and all of such investments the Board of Trustees shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as probable safety of their capital; provided, however, that not more than sixty-five per centum (65%) of said fund, based on the total book value of all investments held, shall be invested at any given time in common stocks, and that not more than five per centum (5%) of said fund shall be invested at any given time in preferred and common, or either, stock of any one corporation and its affiliates and that not more than twenty-five per centum (25%) ~~ten per centum (10%)~~ of said fund, based on the total market ~~book~~ value of all investments held, shall be invested at any given time in the bonds, notes or other evidences of indebtedness of any foreign government or political subdivisions or agencies thereof or corporations created or existing under the laws thereof. The investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law.

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

(C)(1) 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, except as provided in paragraph (2). 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.

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

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

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

(A) In computing service allowance, creditable service shall include all service or employment of the member in the Fire or Police Department, either continuous or interrupted, provided, however, that any leave of absence without pay shall not be included. Credited service shall include credit for up to five (5) years of the time spent in the military service of the Armed Forces of the United States if the member is in the active employ of the City of Tampa immediately prior to such service and leaves a permanent, full-time position as a firefighter or police officer with the City of Tampa for the purpose of voluntary or involuntary service in the Armed Forces of the United States. The member must be entitled to re-employment under the provisions of the Uniformed Services Employment and Re-Employment Rights Act (USERRA). In order to be eligible for the benefits of this section, a

member must return to employment as a firefighter or a police officer of the City of Tampa within one (1) year from the date of release of such active service. Pension contributions shall not be required for military service as described in this section, unless permitted by the Florida Statutes. The provision of this section shall not apply to temporary service for reserve training. ~~No credited service shall be given for military service prior to employment or for service as a firefighter or police officer for any other employer.~~ However, the amount of any pension or compensation that may be received from the Federal Government on account of disability from such service shall be deducted from the amount of any pension due under this Act. The deduction of the amount of any pension or compensation received from the Federal Government shall be made only where the period of military service (not exceeding five (5) years) is added to the period of actual service of the member in either the Fire or Police Department in order to make up the required number of years for retirement on a City pension; that the disability for which any pension or compensation is received from the Federal Government shall be only such disability that was incurred in the military service during the same period of military service used by the member to add to his actual service in the Police or Fire Departments in order to make up the number of years required for retirement on a City pension; and that no deduction of the amount of any pension or compensation received from the Federal Government can or shall be made from the amount of any City pension granted solely on account of disability. Any member who, in order to perform such active military service, has left his employment in the Police or Fire Departments of the City of Tampa and (a) who received a certificate of honorable discharge upon completion of such active military service, (b) is still qualified to perform the duties of such position, (c) makes or shall have made application for reemployment within thirty (30) days after he is released from active military service, shall be restored by the Police or Fire Department of the City of Tampa to such position or a position of like seniority, status and pay.

(B) Immediately upon the passage of this Act the Board of Trustees shall at once establish the service record of all employees, who may be entitled to participate in the benefits of this Act, and shall keep a record thereof.

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

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

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

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

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

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

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

(2) The contribution by the member of the actuarially determined cost of the buyback may be made in one lump sum or may be made by payroll deductions in installments for a period of time which shall not exceed the number of years being purchased. A member electing to make installment payments shall be charged interest based on the actuarially assumed rate of return for the Plan. A member making installment payments shall complete all required payments prior to payment of any benefit under this section.

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

## SECTION 26. DEFERRED RETIREMENT OPTION PROGRAM

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

(D) Interest and Administrative Costs – Interest shall accumulate annually at the rate to reflect the Fund's net investment performance, whether positive or negative, during the DROP calculation period, less the cost of administering the DROP, all of which shall be determined by the Board of Trustees. A DROP participant shall have the opportunity to elect, as provided in this subsection, an investment option to be applied to such DROP participant's account for the Plan Year when entering the DROP and for each subsequent Plan Year. In such election, the DROP participant shall choose to have interest accumulate annually, whether positive or negative, at either (i) a rate reflecting the Fund's net investment performance, as determined by the Board of Trustees, or (ii) a rate reflecting a low-risk variable rate selected annually by the Board of Trustees in its sole discretion. Each election must be made at such time, on such forms, and in such manner as the Board of Trustees may determine in its sole discretion. If the DROP participant fails to make a valid election upon entering the DROP, the Fund interest rate shall be applied as provided herein. If the DROP participant fails to make a valid election in a subsequent Plan Year, the election for the then-current Plan Year shall be applied.

Section 3. The changes to the pension contract in this act for firefighters and police officers who are active members 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 made available in a supplemental pension contract, and an individual shall not be permitted to select some of the pension contract changes and reject other pension contract changes. Any firefighter or police officer who is entitled to benefits under the City Pension Fund for Firefighters and Police Officers in the City of Tampa who is actively employed as a firefighter or police officer in the City of Tampa on or after the date this act becomes a law shall have the opportunity to sign such supplemental pension contract before October 1, 2011. 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 contributions if required as a result of such benefits.

Section 4. 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, 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, Ordinance No. 2001-133, enacted July 3, 2001, chapter 2001-288, Laws of Florida, chapter 2002-369, Laws of Florida, Ordinance No. 2003-22, enacted January 23, 2003, chapter 2004-427, Laws of Florida, and chapter 2007-304, Laws of Florida, is in all other respects approved, ratified, validated, and confirmed.

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

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

Approved by the Governor June 17, 2011.

Filed in Office Secretary of State June 17, 2011.