

CHAPTER 2012-235

House Bill No. 577

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 increase the amount of pension received by a widow or widower or child or children should a member lose his or her life or later die from injuries or causes occurring while in the discharge of duties; allowing a joint annuitant who is also a lawfully wedded spouse to be eligible for a 13th check; 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 and every 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 October 1, 2012, or who hereafter enters into a pension contract with the City.

Section 2. Sections 8 and 27 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, 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, chapter 2007-304, Laws of Florida, and chapter 2011-240, Laws of Florida, are amended to read:

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

(A) To the widow or widower in equal monthly installments an amount equal to sixty-five ~~fifty~~ per centum (~~65%~~ 50%) of the member's final year's earnings, computed from date of death, until death. For the widow or

widower of a firefighter or police officer killed in the line of duty prior to October 1, 1969, the minimum benefit under this section shall be \$1,500 per month (Base plus PRAA). 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.

(B) For each child until he or she shall have reached the age of eighteen (18) years, or until such child or children shall die or marry before reaching the age of eighteen (18) years, or age twenty-three (23) if a full-time student, in equal monthly installments an amount equal to fifteen seven and one-half per centum (15% 7½%) of the final year's earnings, computed from date of death, subject to a limitation of a total of ninety-five sixty-five per centum (95% 65%) of final yearly earnings for widow or widower and children combined. Children's pensions shall terminate at death or marriage as well as reaching age eighteen (18), or age twenty-three (23) if a full-time student. Adopted children shall participate.

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

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

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

(F) In the absence of an eligible surviving spouse or minor children, to the extent required by the Florida Statutes, in the event of the death of a member prior to retirement, the member's designated beneficiary shall be entitled to

the benefits otherwise payable to the member at normal retirement age for ten (10) years certain.

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

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

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

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

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

and

(3) All qualifying surviving spouses, who on the October 1 immediately preceding the June 30 by which distributions are to be made, were eligible for receipt of Section 8 or Section 9 benefits but who have not received such pension benefits for at least 1 year provided that the deceased member was eligible for receipt of pension benefits on October 1 of the prior year.

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

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

(B) 13th Check Account

(1) There is hereby created a 13th check account within the Fund, which shall consist of those employees' contributions set forth in subparagraph 27(B)(2) in excess of those contributions otherwise required by Section 2 for the normal annual cost of benefits, other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than benefits arising from the 13th Check Program, plus any interest earnings thereon up to and including September 30, 2001. Effective for earnings paid on the first pay date after October 1, 2001, employee contributions to the 13th Check account shall cease, and the 13th Check Account shall be funded by investment returns in excess of 10% (limited to 3%) on the base plan liabilities for persons eligible for the 13th check. For purposes of this Section, the "base plan" shall mean those assets of the Fund excluding the Post Retirement Adjustment Account, DROP account assets, and the 13th check account. The amount available for the 13th check shall be calculated as of fiscal year end commencing September 30, 2001 for the fiscal year ending September 30, 2001 for payment no later than June 30, 2002, and each June 30 annually thereafter; provided, however, the calculation of the amount payable no later than June 30, 2002, shall include employee contributions to the 13th check account for earnings paid through the last pay date immediately prior to October 1, 2001. Subject to the requirements of part VII of chapter 112, Florida Statutes, effective October 1, 2007, the 13th Check Account shall be funded by investment returns in excess of 10 percent (limited to 1 percent) on the base plan plus the Post Retirement Adjustment Account market value of assets at each fiscal year ending September 30. For purposes of this section, the term "base plan" means those assets of the fund excluding the Post Retirement Adjustment Account, DROP account assets, and the 13th Check Account. The amount available for the 13th Check shall be calculated as of fiscal year end commencing September 30, 2007, for the fiscal year ending September 30, 2007, for payment no later than June 30, 2008, and each June 30 annually thereafter. The City shall not be required to make contributions toward the 13th check program.

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

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

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

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

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

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

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

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

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

(E) Administration of Program - 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 concerning the 13th Check Program. 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 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 October 1, 2012, shall be made available in a supplemental pension contract, and an individual shall not be permitted to select some of said changes and reject other of said 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 October 1, 2012, shall have the opportunity to sign such supplemental pension contract before October 1, 2012. 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 October 1, 2012, 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, chapter 2007-304, Laws of Florida, and chapter 2011-240, 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 to be invalid, the invalidity shall not affect other provisions or applications of this 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, 2012.

Approved by the Governor May 4, 2012.

Filed in Office Secretary of State May 4, 2012.