

## Senate Bill No. 1996

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 provide for an employer pick-up provision so that employee pension contributions can be made on a pre-tax basis; providing for additional authorized investments; restructuring the 13th Check Program; 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 or contributing 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 who may hereafter enter into a pension contract with the City, amending Section 2(D), Section 6(3), and Section 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 chapter 92-231, Laws of Florida, chapter 94-463, Laws of Florida, chapter 98-515, Laws of Florida, and chapter 2000-485, Laws of Florida, to read:

Section 2(D) Except as provided by subparagraph 2(B)(4) and subparagraph 27(B)(2), the employees covered under this contract shall contribute at the rates set forth below, based upon all of their earnings during each twelve month period commencing on October 1, which contributions shall be deducted from said earnings before the same are paid and shall be promptly deposited in the Fund:

<u>Earnings in Twelve-Month Period Commencing October 1</u>	<u>Employee Contribution Rate</u>
First \$4,000	6%
Next 1,000	7%
Next 1,000	8%
Next 1,000	9%
Next 1,000	10%
Next 1,000	11%
Next 1,000	12%
Next 2,500	15%
Excess over \$12,500	25%

If the City's rate of contribution, pursuant to Section 2(B), should exceed forty per centum (40%), the employee contribution scale above shall be

increased in the ratio of the City's contribution rate, pursuant to Section 2(B), to 40 percent.

Commencing for earnings paid the first pay date after January 1, 2002, all mandatory employee contributions to the Fund shall be picked-up and paid by the City. Such contributions, although designated as employee contributions, will be paid by the City in lieu of contributions by the employee. The contributions so assumed shall be treated as tax-deferred employer "pick-up" contributions pursuant to Section 414(h) of the Internal Revenue Code. Members shall not have the option of receiving the contributed amounts directly instead of having such contributions paid by the City to the Fund.

Section 6(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 ~~the Dominion of Canada or any of its provinces, cities or municipal corporations; 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 the Dominion of Canada, 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 funds, not in regard to speculation but in regard to the permanent disposition 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 the preferred and common, or either, stock of any one corporation and its affiliates ~~and that not more than ten per centum (10%) of said fund, based on the total 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.~~

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 ~~commencing in January 1999, and in January of each year thereafter,~~ 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: ~~in January of each year:~~

(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 January ~~in~~ 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 January ~~in~~ 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 January ~~in~~ which distributions are to be made; and

(3) All qualifying surviving spouses, who on the October 1 immediately preceding the June 30 by January ~~in~~ 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.

(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) ~~and the City's contributions set forth in subparagraph 27(B)(3)~~ 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. 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.

~~(3) Notwithstanding any other provision of this contract, the City shall contribute:~~

~~(a) An amount required 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;~~

~~(b) Commencing October 1, 2001, to the 13th check program, 134 percent of 9.874 percent of the full scale contribution rate (FSCR) for employees set forth in Section 2(D); provided, however, if the sum of the City's contribution for the normal annual cost of benefits plus the 134 percent of 9.874 percent of the full scale contribution rate (FSCR) is greater than 134 percent of 28.789 percent of the full scale contribution rate (FSCR), then the City's contribution to the 13th check program shall be the positive difference between 134 percent of 28.789 percent of the full scale contribution rate (FSCR) and the amount set forth in subparagraph 27(B)(3)(a) [134 percent of the normal annual cost of benefits of the full scale contribution rate (FSCR) for employees set forth in Section 2(D)], but no less than 134 percent of 3 percent of the full scale contribution rate (FSCR).~~

~~(4) Notwithstanding any other provision of this contract, the City's contributions to the 13th check program shall not require the City to make additional contributions to the 13th check program to reimburse the 13th check account for the contributions the City would have otherwise made to the 13th check program had it contributed thereto for the period of October 1, 1998, through September 30, 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 in the following June 30 January, 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, ~~December 15, 1998~~, 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 2. 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, is contingent upon contractual agreement through the collective bargaining process between the City of Tampa and each of the respective certified bargaining agents for firefighters and police officers.

Section 3. The City of Tampa Firefighters and Police Officers Pension Contract as prescribed by Section 28-17 of the City of Tampa Code [Ord-

nance 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, and chapter 2000-485, Laws of Florida, is in all other respects approved, ratified, validated, and confirmed.

Section 4. The benefits provided for herein by Section 1 and the changes to the pension contract provided for herein by Section 1 for active and contributing members on the date this act becomes a law shall be made available in one supplemental pension contract, and a member shall not be permitted to select some of said benefits and reject others of said benefits. Any active or contributing member on the date this act becomes a law who fails to sign said supplemental pension contract before October 1, 2001, shall be forever barred from receiving said benefits and shall not be required to make any contributions required as a result of such 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 Section 1, and shall be required to make the contributions required as a result of such benefits.

Section 5. Notwithstanding the provisions of Section 1, the distribution of the 13th check commencing no later than June 30, 2002, shall be payable within 30 days of receipt of a favorable determination letter from the Internal Revenue Service that the revised 13th check program does not adversely impact the tax qualification of the plan, but no earlier than June 30, 2002.

Section 6. If the City of Tampa enters into a supplemental pension contract as provided in Section 1 of this act, each retired firefighter and retired police officer who is living on the date this act becomes a law, and each member who retires or dies after this act becomes a law, but before October 1, 2001, and each qualifying surviving spouse, who is living on the date this act becomes a law, is entitled to receive the same benefits from the 13th check account upon the same basis as if the member's contract had been supplemented in the manner provided by Section 1 of this act before the member's separation from service; provided however said retired firefighter, retired police officer and eligible surviving spouse as a condition of participation in the 13th check program shall be subject to the provisions of Section 6(3) and Section 24 of the pension contract.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor June 15, 2001.

Filed in Office Secretary of State June 15, 2001.