

**STORAGE NAME:** h1101.ca

**DATE:** March 17, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
ANALYSIS - LOCAL LEGISLATION**

**BILL #:** HB 1101

**RELATING TO:** City of Tampa, Hillsborough County

**SPONSOR(S):** Representative Murman and others

**COMPANION BILL(S):** SB 2592 (i)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COMMUNITY AFFAIRS
- (2) GOVERNMENTAL OPERATIONS
- (3)
- (4)
- (5)

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I. SUMMARY:

This bill amends certain definitions of the General Employees' Retirement Plan of the City of Tampa. This bill makes certain "gender neutral" language changes. This bill authorizes a Deferred Retirement Option Program (DROP) for employees covered under the retirement system for the City.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

**Constitutional Provisions: Protection of Public Retirement and Pensions:** Article X, Section 14, of the Florida Constitution provides that, after January 1, 1977, any governmental unit responsible for a retirement or pension system supported wholly or partially by public funds may not increase pension benefits for members or beneficiaries of that system unless the unit of government has previously funded or concurrently funds the benefit increase on a sound actuarial basis. Part VII of chapter 112, Florida Statutes, as described below, implements these provisions.

**Chapter 112, Florida Statutes:** Chapter 112, Florida Statutes, contains general provisions of law affecting state and local public officers and employees. Various parts of the chapter govern conditions of employment, retirement, death benefits, etc. Part VII, the "Florida Protection of Public Employee Retirement Benefits Act," section 112.61, Florida Statutes, establishes requirements for public pension plans to ensure that all state and local government retirement plans are managed, administered, operated, and funded in such a manner as to maximize the protection of public employee retirement benefits.

Section 112.665(1)(c), Florida Statutes, provides that the Division of Retirement shall: Cooperate with local retirement systems or plans on matters of mutual concern and provide technical assistance to units of local government in the assessment and revision of retirement systems or plans.

Section 112.67, Florida Statutes, prohibits special acts which conflict with the provisions of part VII of chapter 112, Florida Statutes. Pursuant to section 11(a)(21), Art. III of the State Constitution, the Legislature prohibits special laws or general laws of local application in conflict with the requirements of this part.

**Relevant portions of Chapter 23559, Laws of Florida, 1945:** The original enabling special act for the General Employees' Retirement Plan of the City of Tampa was passed by the 1945 Legislature as Chapter 23559, Laws of Florida, 1945. The original enabling act has been amended many times since then. In 1981, the Legislature passed Chapter 81-497 and provided for two divisions of the retirement plan, as follows:

- Created a new division of the General Employee's Pension Plan for the City of Tampa to contain all future employees and any present employees who transfer from the present system;
- Eliminated employee contributions;
- Reduced retirement benefits;
- Coordinated benefits with Social Security benefits;
- Raised the retirement age for future employees; and
- Adjusted disability and death benefits.

**Relevant Portions of Chapter 88-496, Laws of Florida:** Amended the plan and allowed the following persons to participate in Division B of the Plan:

- Elective officers, department heads, and appointive officers working with the City prior to October 1, 1981, could elect to become members of Division B of the retirement plan; and
- All employees employed after January 1, 1988, who were employed in positions created and financed in whole or in part as the result of participation in grant-in-aid programs or receipt of funds from any agency, could elect to receive credit for continuous and creditable past service under certain conditions (i.e., request to do so in writing and pay contributions into the fund equal to the aggregate contributions plus 8 percent compounded interest).

The special act also provided:

- Elective officers, department heads, and appointive officers working with the City prior to October 1, 1988, who were not members of the retirement plan and employed with the City on or after January 1, 1988, could become members of Division B of the plan if they requested to do so in writing and paid into the fund the sum of money equal to the aggregate contributions, plus compounded interest at 8 percent per annum.
- All permanent City employees, including elected officers who are not covered by another pension plan, are included in the General Employees' Plan in either Division A or Division B.
- Those persons employed before October 1, 1981, are in Division A.
- All others are in Division B, which also includes some persons in A who opted to change to B.
- Division A members are eligible for normal retirement at age 55 and completion of at least 10 years of service.
- Total years of service is limited to 30 years.
- There is an annual cost-of-living adjustment (COLA) benefit not to exceed 1 percent and;
- The member contributes 7 percent toward his or her retirement benefit.

Division B employees are similar except retirement age is 62, service is not limited, there is no COLA benefit, and it is non-contributory.

Section 16 of the plan provides for calculation of retirement benefits of retired persons **reemployed** by the City. The present calculation is the sum of the monthly pension received immediately prior to the commencement of additional service **plus** one and one tenth percent of the average monthly salary at the end of the period of additional service multiplied by the number of years of additional service. The benefit may not be taken before the age of 62 years and may not be less than \$100 per month after 25 years of service.

Section 8 of the plan provides the method of calculating longevity retirement benefits for Division A and Division B employees.

Division A employee's longevity retirement benefits are calculated to be equal to 2 percent of the average monthly salary multiplied by service plus an additional one-half percent of the average monthly salary for each additional year of service for employment after 15 years for those years served on or after January 1, 1975, until a maximum of 30 years of service is attained.

Division B employees' retirement benefit is calculated in one of two ways depending on whether the employee was previously a member in Division A of the retirement plan. The methods are provided in Section 8 (B) 1. and (B) 2. of the plan.

Pension payments are suspended during periods of reemployment with the City. When the rehired retiree again retires, the prior monthly pension payment resumes plus an additional monthly amount is paid equal to 1.1 percent of the best 3-year salary average during the reemployment period times the number of years of such additional service. The employee, however, must be age 62.

**Deferred Retirement Option Plan (DROP):** A DROP program is an arrangement under which an employee who would otherwise be entitled to retire and receive benefits under an employer's defined benefit retirement plan instead continues working. However, instead of having the continued compensation and additional years of service taken into account for purposes of the defined benefit plan formula, the employee has a sum of money credited during each year of the continued employment to a separate account under the employer's retirement plan. The account earns interest (either at a rate stated in the plan or based on the earnings of the trust underlying the retirement plan). The account is paid to the employee, in addition to whatever benefit the employee has acquired under the defined benefit plan based on earlier years of service, when the employee eventually retires.

To the extent that employers are initiating DROP programs, the major reason is a concern about the ability to retain valued employees who are eligible to retire. Many governmental plans, either as a

matter of plan design or due to inadvertence, contain substantial incentives for employees to retire early.

**B. EFFECT OF PROPOSED CHANGES:**

This bill makes the following changes to the City of Tampa's pension and retirement system:

- Makes technical gender neutral changes to the language of the retirement system for the City of Tampa.
- Repeals the definition of "casual laborer."
- Extends the time an employee can be classified as a temporary employee from the current 90 days to 180 days.
- Provides that time spent upon an authorized leave of absence by a member of a recognized bargaining unit for union business will not be creditable unless the individual, in Division A, pays into the pension fund on a biweekly basis an amount equal to the aggregate contributions the employee would have made and amounts the City would have paid into the fund based on the salary the employee would have earned had the employee not been on authorized leave of absence.
- Changes the method of determining average monthly salary from the current calculation of the average monthly amount of the employee's salary for the highest 3 of the last 10 years to the average monthly amount of the employee's salary for the highest 3 of the last 10 years of *continuous service*.
- Increases employer contributions from the *current requirement* of moneys necessary, when combined with employee contributions, to maintain a level of funding adequate to enable payment of the benefit amounts required by the plan, to pay the yearly amortization of any accrued unfunded liability, *to also include* the funding of costs to administer the plan.
- Changes the title of the financial officer of the board of trustees from Treasurer to Director of Finance.
- Requires that the compensation of all persons engaged by the City for the board of trustees and all other expenses of the board necessary for the administration of the plan must be paid out of the fund. The board will determine the rates and amounts of moneys paid. However, in no case will the expenditures for compensation, expenses, and administration exceed .5 percent of the maximum of the fund each fiscal year.
- Eliminates the requirement to retain a *nationally* recognized professional investment counselor for advisory services.

**[Note:** The board is still required to retain the services of professional investment counselors or state or national banks in the State of Florida. Said banks must be capitalized at not less than \$10 million, having trust assets aggregating not less than \$150 million in value, having not less than 500 trust accounts.]

- Authorizes the portfolio, representing the principal or surplus funds of the pension, to *also* be invested in bonds, notes, or other evidences of indebtedness issued or assumed or guaranteed in whole or in part by *any foreign government or political subdivisions or agencies thereof*.

**[Note:** Currently the board may invest in the above financial instruments of the United States or any of its agencies or instrumentalities or the Dominion of Canada or any of its provinces, cities, or municipal corporations.]

- Authorizes the portfolio, representing the principal or surplus funds of the pension, to *also* be invested in both general and revenue obligations; in mortgages and other interests in realty and shares or certificates of real estate investment trusts; or in such corporation bonds, notes, or other evidences of indebtedness, and corporation stocks including common and preferred

stocks, or any corporation stocks including common and preferred stocks, or any corporation existing under the laws of *any foreign government or political subdivisions or agencies thereof.*

**[Note:** Currently the board may invest in any of the above-listed financial instruments which are created under the laws of the of the United States, or any of the states of the United States, or any foreign country.]

- Eliminates the restriction on the method of paying for the required actuarial surveys of the plan. Currently the survey must be paid for in the same manner as the cost of medical examinations and clerical expenses.
- Expands the permissible rating classifications for investment of corporation bonds, notes, or other evidences of indebtedness commonly referred to as "fixed income investments" from the current requirement of the *three highest classifications* of a major rating service to the *four highest classifications* of a major rating service.
- Amends death benefits for members.
- For Division B employees, expands allowable pension to spouses married to the deceased employee to include those married *on* the date of retirement of the employee.
- Authorizes certain cost-of-living adjustments to the monthly pension benefits due all retired employees of the plan.
- Requires that a temporary employee will not be given a physical examination until 180 days after date of employment.

**[Note:** This is an increase from the current 90-day restriction.]

- Authorizes a DROP option for employees covered under the retirement system for the City of Tampa, beginning October 1, 1999. The DROP option is a plan under which an eligible member may elect to have the member's pension benefits calculated as of a certain date prior to the retirement, and accumulate benefits plus the investment return . Participation in the DROP does not guarantee employment for the DROP calculation period.
- Establishes certain minimum requirements to participate in the DROP.
- Limits eligible pension plan members to make one DROP election during their lifetime, subject to certain requirements.
- Creates DROP benefits as follows:
  - Effective with the DROP benefit calculation date, a DROP participant's monthly pension installments, including continuous service, average monthly salary, and effective date of retirement, will be fixed.
  - Establishes DROP accumulation method of calculation, as follows
    - ◆ The amount of monthly installments to which the member would have been entitled to receive from the DROP benefit calculation date to the end of the member's DROP calculation period.
    - ◆ The amount of any cost-of-living adjustments during the DROP benefit calculation period.
    - ◆ Interest accumulation as set by the DROP program.
  - Establishes distribution of member benefits at the conclusion of DROP benefit calculation period, termination of DROP participant, or death of DROP participant, as follows:

- ◆ The City must provide to the board of trustees verification that the DROP participant's employment with the City has terminated.
- ◆ The terminated DROP participant or, if deceased, the participant's named beneficiary or beneficiaries must make election of DROP benefits, in accordance with the options provided.
- ◆ DROP participants or, if deceased, the participant's named beneficiary or beneficiaries, who fail to elect a method of payment within 60 days of termination of the DROP. participant, will receive a lump-sum payment, as provided for by the DROP.
- Provides for interest and administrative costs, as follows:
  - ◆ Interest will accumulate annually at a rate reflecting the fund's net investment performance, whether positive or negative, during the DROP calculation period, less the cost of administering the DROP.
  - ◆ Interest and costs will be determined by the board.
- Provides for payment of DROP benefits, as follows:
  - ◆ At termination of employment with the City, the accumulated DROP benefits, at the option of the participant, or participant's beneficiary or beneficiaries, will be distributed to the extent allowed by law by rollover to another qualified plan, as a lump-sum payment, as a combination of both, or in such other forms as provided for by the rules and regulations adopted by the board of trustees.
  - ◆ The distribution may be adjusted by the board of trustees to maintain Internal Revenue Code qualifications.
  - ◆ At the death of DROP participant, prior to the DROP calculation period, or on or before the DROP participant's full DROP accumulation is distributed, any remaining DROP accumulation will be distributed to the DROP participant's beneficiary or beneficiaries, or, if no surviving designated beneficiary, to the participant's spouse, or if there is no surviving spouse, to the participant's estate.
  - ◆ Any such payment will be made in a lump-sum payment, unless the participant had already commenced benefit of their DROP accumulation in an optional plan. In any such event, benefits will continue to be paid pursuant to the optional benefit form selected.
  - ◆ The form of distribution elected by a DROP participant or surviving beneficiary must comply with the applicable requirements of the Internal Revenue Code and the regulations adopted thereunder.
  - ◆ DROP participants involuntarily discharged, who seek review of the discharge, are not entitled to receipt of pension benefits or benefits accumulated while in the DROP until it has been determined that the discharge was lawful, or at the expiration of DROP participation, whichever comes first.
  - ◆ Accumulated benefits of any DROP participant, including interest thereon, will not be subject to assignment, garnishment, execution, attachment, or to any legal process whatsoever, except income deduction orders as provided by chapter 61, Florida Statutes, and federal income tax levies.
  - ◆ Upon termination from employment of the City, monthly pension installments with the cost-of-living adjustments will be paid to the member in accordance with the plan.
  - ◆ Upon the death of the member, the monthly pension installments with cost-of-living adjustments will be paid in accordance with the plan.

- Authorizes board of trustees to adopt rule changes to the plan in order to comply with municipal ordinance, 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 plan. The rules will have the force of law and must be considered part of this act.
- Authorizes the board of trustees to adopt such rules as are necessary for the effective and efficient administration of this section, provided that the rules are not inconsistent with the provisions of this act.
- Provides that the board of trustees must not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.
- Provides that each provision of this act must be construed and administered in such a manner that the plan and program will qualify as a qualified government pension plan under existing or hereinafter enacted provisions of the Internal Revenue Code and the regulations adopted thereunder.
- Provides that the board of trustees may adopt any rule necessary to accomplish the purposes of this section, as necessary to retain tax qualification, and that the rule must have the force of law and must be considered part of this act.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 23559, Laws of Florida, as amended.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

**E. SECTION-BY-SECTION ANALYSIS:**

**Section 1:** Repeals subsection (F) of section 4, chapter 23559, Laws of Florida, 1945, as amended, repealing the definition of "casual laborer."

Amends, subsections (G), (H), and (J) of section 4, chapter 23559, Laws of Florida, 1945, as amended, as follows:

- Extends the time period contemplated for a temporary employee from the current 90 days to 180 days.
- Makes technical gender neutral changes to the language of the retirement system for the City of Tampa.
- Provides that authorized leave of absence by a member of a recognized bargaining unit for union business will not be creditable as continuous service unless the Division A individual pays into the pension fund on a biweekly basis an amount equal to the aggregate contributions the individual would have made and amounts the City would have paid into the fund had the individual not been on an authorized union leave of absence.
- Amends the average monthly salary to be determined by calculating the average of an employee's salary for the highest 3 of the last 10 years of **continuous service**.

[**Note:** This is a change from the current requirement that the average monthly salary be determined by calculating the average of an employee's salary for the highest 3 of the last 10 years of employment.]

**Section 2:** Repeals subsection (C) of section of 5, chapter 23559, Laws of Florida, 1945, as amended, repealing the requirement for the City to pay into the pension fund, along with employee contributions, the necessary amounts for clerical and medical examination expenses. The two amounts are required to be designated by the trustees and certified by the Mayor or Executive Head of the City . The City Council is required to designate the amounts required in the budget for the succeeding year.

Amends subsection (B) of section 5, chapter 23559, Laws of Florida, 1945, as amended, and renumbers subsection (D) as subsection (C) of chapter 23559, Laws of Florida, 1945, as amended, as follows:

- Employer contributions must consist of the amount of moneys necessary, when combined with employee contributions, not only to maintain a level of funding adequate to enable payment of the benefit amounts prescribed by the plan and the yearly amortization of any accrued unfunded liability, *but also to fund the costs of administering the plan.*

**Section 3:** Amending section 6, chapter 23559, Laws of Florida, 1945, as amended, as follows:

- Changing reference to the City treasurer to the director of finance. Creates a requirement that compensation of all persons engaged by the City for the board of trustees and all other expenses of the board of trustees necessary for the administration of the plan must be paid out of the fund at rates and amounts approved by the trustees.
- Establishes a limit on compensation and administrative expenditures of .5 percent each fiscal year.
- Removes the requirement that the professional investment counselors retained by the board to offer qualified and competent investment advisory services be *nationally* recognized.
- Authorizes the portfolio, representing the principal or surplus funds of the pension, to *also* be invested in bonds, notes, or other evidences of indebtedness issued or assumed or guaranteed in whole or in part by *any foreign government or political subdivisions or agencies thereof.*

[**Note:** Currently, the board may invest in the above financial instruments of the United States or any of its agencies or instrumentalities or the Dominion of Canada or any of its provinces, cities or municipal corporations.]

- Authorizes the portfolio, representing the principal or surplus funds of the pension, to *also* be invested in both general and revenue obligations; in mortgages and other interests in realty and shares or certificates of real estate investment trusts; or in such corporation bonds, notes, or other evidences of indebtedness, and corporation stocks including common and preferred stocks, or any corporation stocks including common and preferred stocks, or any corporation or existing under the laws of *any foreign government or political subdivisions or agencies thereof.*

[**Note:** Currently, the board may invest in any of the above-listed financial instruments which are created under the laws of the United States, or any of the states of the United States, or any foreign country.]

Eliminates the restriction on the method of paying for the required actuarial surveys of the plan. Currently the survey must be paid for in the same manner as the cost of medical examinations and clerical expenses.

- Expands the permissible rating classifications for investment of corporation bonds, notes, or other evidences of indebtedness commonly referred to as "fixed income investments" from the current requirement of the *three highest classifications* of a major rating service to the *four highest classifications* of a major rating service.

**Section 4:** Amends subparagraph b. and f. of paragraph 1. of subsection (A) and paragraph 4. of subsection (B), section 12, chapter 23559, Laws of Florida, as amended, as follows:

- Amends death benefits for members - Division A members:
  - Provides that the current pension of \$15 per month is increased to \$100 per month.
  - Provides that upon orphaned children reaching the age of 18 years, if there is a balance in the employee's contribution account, it will be paid in a lump sum to the employee's legal heirs.
- Amends death benefits for members - Division B members:
  - Expands allowable pension to spouses married to the deceased employee to include those married *on* the date of retirement of the employee.

**Section 5:** Repealing section 13, chapter 23559, Laws of Florida, 1945, as amended, providing for a minimum length of service requirement of 5 years. Creates a new section 13, creating a cost-of-living adjustment, as follows:

- Authorizes cost-of-living adjustments to the monthly pension benefits due all retired employees of the plan, as follows:
  - On October 1, 1999, a single adjustment will be made to the pension benefit due each employee who retired before January 1, 1975, from active service. The amount of the single adjustment will include the amount of the September monthly benefit, plus an amount, compounded annually from the date of retirement from active service until January 1, 1999, equal to 1 percent of the benefit.
  - Beginning January 1, 2000, and each January 1 thereafter, the pension benefit must be adjusted as follows:
    - ◆ For Division A retired employees and beneficiaries thereof, the amount of the monthly pension benefit due for the 12-month period beginning on the adjustment date will be the amount of the monthly benefit received on December 31 immediately preceding plus an amount equal to 2 percent of the benefit.
    - ◆ For Division B retired employees and beneficiaries thereof, the amount of the monthly pension benefit due for the 12-month period beginning on the adjustment date will be the amount of the monthly benefit being received on December 31 immediately preceding plus an amount equal to 1 percent of the benefit.

**Section 6:** Amending section 18, chapter 23559, Laws of Florida, 1945, as amended, prohibiting a physical examination of a temporary employee until 180 days after date of employment.

**[Note:** This is an increase from the current 90-day restriction.]

**Section 7:** Amending section 20, chapter 23559, Laws of Florida, 1945, as amended, deleting the exemption that the pension or other benefits accrued or accruing to any person, and the accumulated contributions and the cash securities in the funds are not assignable except to the Tampa City Employees Federal Credit Union.

**Section 8:** Creating section 22, chapter 23559, Laws of Florida, 1945, as amended, authorizing a DROP option for employees covered under the retirement system for the City of Tampa, beginning October 1, 1999. The DROP option is a plan under which an eligible member may elect to have the member's pension benefits calculated as of a certain date prior to the retirement, and accumulate benefits plus the investment return. Participation in the DROP does not guarantee employment for the DROP calculation period. The DROP plan also provides, as follows:

- Plan members must meet the following eligibility requirements:

- Must be at least 55 years old;
- Must have at least 10 years *continuous service at the time the member files for election*. Members are eligible for accumulations pursuant to the DROP for a maximum of 7 years.
- Members must meet all eligibility requirements for pension benefits, other than separation from service as an employee of the City.
- Plan members must notify the City and the board of trustees of election to participate in the DROP on forms required by the City and the board of trustees of the following:
  - ◆ An irrevocable written election to participate in the DROP, specifying a DROP benefit calculation date.
  - ◆ An irrevocable notice of employment termination to take effect on the expiration of the DROP calculation period. The DROP participant is not precluded from voluntarily terminating employment with the City before the expiration of the DROP calculation period. The City is not precluded from terminating the DROP participant's employment, as applicable due to disciplinary action, layoff, or other separation in accordance with the applicable collective bargaining agreement, civil service law, or other applicable law.
  - ◆ A properly completed application for longevity retirement benefits to be calculated pursuant to the requirements of the plan, as of the DROP benefit calculation date.
  - ◆ Submit other forms, including a properly completed application for longevity retirement benefits, as required by the board of trustees.
- Plan member may only make one DROP election during their lifetime, as follows:
- The status of members, for pension purposes only, is as follows:
  - During the DROP calculation period, there will be no contribution deductions made from the earnings, wages, salary, or compensation earned by the DROP participant.
  - Upon entry into DROP, the member is no longer entitled to disability retirement benefits.
  - Upon the death of a DROP participant, the named beneficiaries are entitled to receive the benefits accumulated during the DROP calculation period as of the date of death.
  - Eligibility to participate in the DROP terminates on the death of the DROP participant.
  - A DROP participant is not eligible to be elected as a member of the board of trustees during the participant's DROP calculation period.
- DROP participant benefits are as follows:
  - Effective with the DROP benefit calculation date, a DROP participant's monthly pension installments, including continuous service, average monthly salary, and effective date of retirement, will be fixed.
  - DROP accumulation will be calculated as follows:
    - ◆ The amount of monthly installments to which the member would have been entitled to receive from the DROP benefit calculation date to the end of the member's DROP calculation period.
    - ◆ The amount of any cost-of-living adjustments during the DROP benefit calculation period.
    - ◆ Interest accumulation as set by the DROP program.

- At the conclusion of the member's DROP benefit calculation period, the board of trustees will distribute the member's benefits, subject to the follow provisions:
  - ◆ The board of trustees must receive verification by the City that the DROP participant's employment by the City has been terminated.
  - ◆ The terminated DROP participant, or if deceased, the named beneficiary, must elect on forms provided by the board of trustees, to receive DROP benefits in accordance with one of the options provided for by the plan.
  - ◆ Failure of a DROP participant or named beneficiary to elect a method of payment will result in a lump-sum payment by the board of trustees.
- DROP interest must accumulate annually at a rate reflecting 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 must be determined by the board of trustees).
- DROP payments must be made as follows:
  - Termination of employment with the City - The accumulated DROP benefits, at the option of the terminated DROP participant, or designated beneficiary, must be distributed to the extent allowed by law by rollover to another qualified plan, as a lump-sum payment, or as a combination of both, or in such other forms as provided by the rules and regulations adopted by the board of trustees. The board of trustees must be able to adjust the distribution to maintain Internal Revenue Code qualification of the plan.
  - Death of a DROP participant - Any remaining DROP accumulation must be distributed to the designated beneficiary, or if none, to the participant's spouse, or if none, to the participants's estate. Any such payment must be made in a lump-sum payment, unless the DROP participant had previously commenced the benefit payment of their DROP accumulation in an optional plan. In such event, the benefits must continue to be paid pursuant to the optional benefit form selected.
  - The form of distribution elected by a DROP participant or beneficiary must comply with the applicable requirements of the Internal Revenue Code and regulations adopted thereunder.
  - Involuntarily discharged DROP participant - If seeking review of the discharge, a DROP participant will not be entitled to receipt of pension benefits or benefits accumulation while in the DROP until it has been determined that the discharge was lawful, or at the expiration of DROP participation, whichever comes first.
  - Accumulated benefits of DROP participant, including interest, is not subject to assignment, garnishment, execution, attachment, or to any legal process whatsoever, except income deduction orders for an obligation for alimony or child support.
  - Upon termination from employment with the City, the monthly pension installments and cost-of-living adjustments must be paid to the member, and upon the death of the member, the monthly pension installments and cost-of-living adjustments must be paid pursuant to the requirements of the plan.
- To the extent that any provision of this section is in conflict with the "Florida Protection of Public Employee Retirement Benefits Act", sections 112.60-112.67, Florida Statutes, which applies to local law plans established by municipal ordinance or special act, or provisions of Florida Statutes made applicable to pension funds established by municipal ordinance or special act, the board of trustees is delegated the authority to adopt by rule changes to this section in order to comply with said laws, and the rules will have the force of law and will be considered part of this act.
- To the extent that any provisions of Florida Statutes are or are made applicable to pension funds established by special act, the board of trustees is delegated the authority to adopt by rule changes to this section in order to comply with said laws, and the rules will have the force of law and will be considered part of this act.

- To the extent that any provision of this section would result in the loss of tax exempt status of the plan, the board of trustees is delegated the authority to adopt by rule changes to this section in order to comply with said laws, and the rules will have the force of law and will be considered part of this act.
- The board of trustees is authorized to make such rules as are necessary for the effective and efficient administration of this section, provided that such rules are not inconsistent with the provisions of this act.
- The board of trustees are not required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.
- Notwithstanding any other provision of this section to the contrary, each provision of this section must be construed and administered in such a manner that the plan and program will qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code and the regulations adopted thereunder.
- The board of trustees may adopt any rule necessary to accomplish the purpose of this section as is necessary to retain tax qualification, and the rule will have the force of law and will be considered part of this act.

**Section 9:** Provides that the act must take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 28, 1999

WHERE? **The Times** (an edition of the St. Petersburg Times), Citrus, Hernando, Pasco, Hillsborough, and Pinellas County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

IV. COMMENTS:

**Section 1 of the bill may have a disproportional negative impact on women.** Generally, women face greater challenges to retirement security, in large part because they are more likely to take time off work to care for children or elderly parents. This section provides that the average monthly salary used to calculate pension benefits be changed from the current standard of "highest 3 of the last 10 years of employment" to **a more restrictive standard** of "highest 3 of the last 10 years of continuous service."

**The Florida Division of Retirement, Department of Management Services** provided the following comments, in part, in their **January 13, 1999**, review of the Actuarial Valuation Reports and Impact Statement:

1996 and 1997 Actuarial Reports

1. We have determined these reports to be **state accepted** pursuant to Part VII of Chapter 112, Florida Statutes.

Actuarial Impact Statement

2. The retirement rate assumptions in use for the regular actuarial valuations were continued in the determination of the cost impact for the proposed benefit changes. While this might be reasonable for the program prior to the adoption of DROP, in our opinion, it is not reasonable with the DROP.

To date, without apparent exception, for the plans offering the DROP option into which we have inquired, experience has shown increased utilization of retirement occurring sooner than anticipated by the existing actuarial assumption. This experience has also been reported by the actuaries and/or plan administrators for plans offering the DROP option, and we are not aware of any reason why experience should not be any different for your Plan. For Division A members, we expect a greater utilization of the retirement option at the earlier ages as compared to the expected utilization using the current assumptions. For the Division B members, considering the overall benefit provisions, we are satisfied, at this time, that the current retirement assumptions are reasonable. Please revise the determination for the Division A members.

3. We need additional information to evaluate the efficacy of the retirement assumptions. For each of the 5 plan years ended September 30, 1993, through 1998, inclusive, please provide an exhibit disclosing, by Division and by attained aged, the number of members eligible for retirement, and in juxtaposed columns, the number of them electing retirement. In future reports, please continue this exhibit by adding another column disclosing the number electing DROP.
4. The proposed special act provides distributions from the DROP accounts in such form as permitted by the rules and regulations adopted by the Board of Trustees. Nothing is expressed regarding the limit on the total amount paid from a DROP account. We are aware of misunderstandings in other localities where the recipients are of the belief that the periodic payments continue for their lifetime; and a recipient may "out-live" the account balance. This should be made explicitly clear in all communications to DROP members, and also become part of the summary plan description; and perhaps the proposed special act should be amended accordingly.
5. The proposed special act provides that benefits do not accrue for the DROP period and that at the end of the agreed upon DROP participation period employment with the City is presumably ended. This appears to be an employment issue and the possibility exists for continuing benefit accrual. This is to advise that in the event the DROP member continues in City service **and** is credited with earnings and service for Plan purposes, the City shall be required to immediately pay into the Plan's trust fund the accumulated contributions that would have been paid for such member during the DROP period, with interest, in addition to the contributions and interest payable by the member.
6. Please provide the plan administrator's certification required by Rule 60T-1.004(3), F.A.C.
7. Your actuary is requested to provide the same certification statement as used in the most recent actuarial valuation reports.

Other

8. In all subsequent reports, your actuary is requested to specifically disclose that payments for unused leave time (vacation, sick leave, compensatory, etc.) are not pensionable.
9. Upon the completion of the forthcoming legislative session and the consideration of the proposed special act, please provide a copy of each of the following items:
  - I. The legal instrument containing all the provisions of the current retirement benefit program; and,
  - ii. The summary plan description.

**The Florida Division of Retirement, Department of Management Services** provided the following comments, in part, in their **February 19, 1999**, review of the Actuarial Valuation Reports and Impact Statement:

The referenced revised results forwarded with your actuary's February 8 letter satisfies the concerns expressed in Item 2 of our January 13 letter to you, and we have determined the impact statement as revised, to be **state accepted** pursuant to Part VII of Chapter 112, Florida Statutes. The select and ultimate retirement rates used in the revised cost determination appear to be reasonable.

**City of Tampa:** The City of Tampa **supports** the bill and provides the following information:

- Unlike the Florida Retirement System, the current pension plan for the City of Tampa general employees does not provide a cost-of-living adjustment (COLA) for most employees, or for Deferred Retirement Option Program (DROP).
- This legislation is necessary to provide the City's approximately 2,500 general employees retirement benefits similar to the Florida Retirement System and other municipalities around the state.
- The net effect of this legislation is all retirees under the plan - in both Division A and B - would receive what would amount to an annual 2% cost-of-living adjustment effective October 1, 1999. The state pension plan provides a 3% COLA.
- The legislation provides that employees with 10 years of service who are age 55 can participate in a Deferred Retirement Option Plan for up to seven years. The state pension plan already contains a DROP plan.
- The actuarial impact statement related to the legislation indicates that no additional funding is required by the City to carry out these changes.
- The last major updates of the City's pension plan for general employees was in 1981.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

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Tonya Sue Chavis, Esq.

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Joan Highsmith-Smith