

Bill No. SB 1996

Amendment No.      Barcode 170520

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Crist moved the following amendment:

**Senate Amendment (with title amendment)**  
Delete everything after the enacting clause

and insert:

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

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1 2000-485, Laws of Florida, to read:

2 Section 2(D) Except as provided by subparagraph  
 3 2(B)(4) and subparagraph 27(B)(2), the employees covered under  
 4 this contract shall contribute at the rates set forth below,  
 5 based upon all of their earnings during each twelve month  
 6 period commencing on October 1, which contributions shall be  
 7 deducted from said earnings before the same are paid and shall  
 8 be promptly deposited in the Fund:

9  
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11 Earnings in	12 Employee
12 Twelve-Month Period	13 Contribution
13 <u>Commencing October 1</u>	14 <u>Rate</u>
15 First \$4,000	16 6%
16 Next 1,000	17 7%
17 Next 1,000	18 8%
18 Next 1,000	19 9%
19 Next 1,000	20 10%
20 Next 1,000	21 11%
21 Next 1,000	22 12%
22 Next 2,500	23 15%
23 Excess over \$12,500	24 25%

24

25 If the City's rate of contribution, pursuant to Section 2(B),  
 26 should exceed forty per centum (40%), the employee  
 27 contribution scale above shall be increased in the ratio of  
 28 the City's contribution rate, pursuant to Section 2(B), to 40  
 29 percent.

30 Commencing for earnings paid the first pay date after  
 31 January 1, 2002, all mandatory employee contributions to the

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1 Fund shall be picked-up and paid by the City. Such  
2 contributions, although designated as employee contributions,  
3 will be paid by the City in lieu of contributions by the  
4 employee. The contributions so assumed shall be treated as  
5 tax-deferred employer "pick-up" contributions pursuant to  
6 Section 414(h) of the Internal Revenue Code. Members shall  
7 not have the option of receiving the contributed amounts  
8 directly instead of having such contributions paid by the City  
9 to the Fund.

10           Section 6(3) That the portfolio, representing the  
11 principal or surplus funds of the Pension Fund may be invested  
12 in the following securities or other property, real or  
13 personal, including, but without being limited to, bonds,  
14 notes, or other evidences of indebtedness issued, or assumed  
15 or guaranteed in whole or in part by the United States or any  
16 of its agencies or instrumentalities; or by ~~the Dominion of~~  
17 ~~Canada or any of its provinces, cities or municipal~~  
18 ~~corporations;~~any foreign government or political subdivisions  
19 or agencies thereof; or by the State of Florida, or by any  
20 county, city, school district, municipal corporation, or other  
21 political subdivision of the State of Florida, both general  
22 and revenue obligations; in mortgages and other interests in  
23 realty; or in such corporation bonds, notes, or other  
24 evidences of indebtedness, and corporation stocks including  
25 common and preferred stocks, of any corporation created or  
26 existing under the laws of the United States or any of the  
27 states of the United States, or ~~of the Dominion of Canada,~~of  
28 any foreign government or political subdivisions or agencies  
29 thereof, provided that in making each and all of such  
30 investments the Board of Trustees shall exercise the judgment  
31 and care under the circumstances then prevailing which men of

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1 ordinary prudence, discretion, and intelligence exercise in  
2 the management of their own funds, not in regard to  
3 speculation but in regard to the permanent disposition of  
4 their own affairs, not in regard to speculation but in regard  
5 to the permanent disposition of their funds, considering the  
6 probable income therefrom as well as probable safety of their  
7 capital; provided, however, that not more than sixty-five per  
8 centum (65%) of said fund, based on the total book value of  
9 all investments held, shall be invested at any given time in  
10 common stocks, and that not more than five per centum (5%) of  
11 said fund shall be invested at any given time in the preferred  
12 and common, or either, stock of any one corporation and its  
13 affiliates and that not more than ten per centum (10%) of said  
14 fund, based on the total book value of all investments held,  
15 shall be invested at any given time in the bonds, notes or  
16 other evidences of indebtedness of any foreign government or  
17 political subdivisions or agencies thereof or corporations  
18 created or existing under the laws thereof.

19 Section 27. 13TH CHECK PROGRAM.--Notwithstanding any  
20 other provisions of this contract, and subject to the  
21 provisions of this section, the 13th Check Program is a  
22 program which authorizes the Board of Trustees to establish  
23 and make a supplemental pension distribution ~~commencing in~~  
24 ~~January 1999, and in January of each year thereafter,~~ pursuant  
25 to the following terms and conditions:

26 (A) Eligibility.--The following persons shall be  
27 eligible for the supplemental pension distribution payable no  
28 later than June 30, 2002, and each June 30 annually  
29 ~~thereafter: in January of each year:~~

30 (1) All retired members who have terminated employment  
31 as a firefighter or police officer in the fire department or

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1 police department, respectively, who, on the October 1  
2 immediately preceding the June 30 by January in which  
3 distributions are to be made, were eligible to receive pension  
4 benefits for at least 1 year. For purposes of this section  
5 only, a DROP participant shall be considered a retired member  
6 and, during the DROP calculation period, a DROP participant  
7 shall be eligible for the 13th check benefit, provided that,  
8 on the October 1 immediately preceding the June 30 by January  
9 ~~in~~ which distributions are to be made, such DROP participant  
10 had participated in the DROP for at least 1 year;

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

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

22 (B) 13th Check Account.--

23 (1) There is hereby created a 13th check account  
24 within the Fund, which shall consist of those employees'  
25 contributions set forth in subparagraph 27(B)(2) ~~and the~~  
26 ~~City's contributions set forth in subparagraph 27(B)(3) in~~  
27 excess of those contributions otherwise required by Section 2  
28 for the normal annual cost of benefits, other than benefits  
29 arising from post retirement adjustments made pursuant to  
30 Section 23 and other than benefits arising from the 13th Check  
31 Program, plus any interest earnings thereon up to and

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1 including September 30, 2001. Effective for earnings paid on  
2 the first pay date after October 1, 2001, employee  
3 contributions to the 13th Check Account shall cease, and the  
4 13th Check Account shall be funded by investment returns in  
5 excess of 10% (limited to 3%) on the base plan liabilities for  
6 persons eligible for the 13th check. For purposes of this  
7 Section, the "base plan" shall mean those assets of the Fund  
8 excluding the Post Retirement Adjustment Account, DROP account  
9 assets, and the 13th check account. The amount available for  
10 the 13th check shall be calculated as of fiscal year end  
11 commencing September 30, 2001 for the fiscal year ending  
12 September 30, 2001 for payment no later than June 30, 2002,  
13 and each June 30 annually thereafter; provided, however, the  
14 calculation of the amount payable no later than June 30, 2002,  
15 shall include employee contributions to the 13th check account  
16 for earnings paid through the last pay date immediately prior  
17 to October 1, 2001. The City shall not be required to make  
18 contributions toward the 13th check program.

19 (2) Notwithstanding any other provision of this  
20 contract, commencing October 1, 1998, employees covered under  
21 this contract shall continue to contribute pursuant to Section  
22 2 at the rates required for employees to fund the normal  
23 annual cost of benefits, other than benefits arising from post  
24 retirement adjustments made pursuant to Section 23 and other  
25 than benefits arising from the 13th check program made  
26 pursuant to this section, plus an additional 100 percent of  
27 9.874 percent of the full scale contribution rate (FSCR) set  
28 forth in Section 2(D) to the 13th check program. Employee  
29 contributions to the 13th check shall cease effective for  
30 earnings paid on the last pay date immediately prior to  
31 October 1, 2001.

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

3           ~~(a) An amount required to fund the normal annual cost~~  
4 ~~of benefits, other than benefits arising from post-retirement~~  
5 ~~adjustments made pursuant to Section 23 and other than~~  
6 ~~benefits arising from the 13th check program made pursuant to~~  
7 ~~this section, plus:~~

8           ~~(b) Commencing October 1, 2001, to the 13th check~~  
9 ~~program, 134 percent of 9.874 percent of the full scale~~  
10 ~~contribution rate (FSCR) for employees set forth in Section~~  
11 ~~2(D); provided, however, if the sum of the City's contribution~~  
12 ~~for the normal annual cost of benefits plus the 134 percent of~~  
13 ~~9.874 percent of the full scale contribution rate (FSCR) is~~  
14 ~~greater than 134 percent of 28.789 percent of the full scale~~  
15 ~~contribution rate (FSCR), then the City's contribution to the~~  
16 ~~13th check program shall be the positive difference between~~  
17 ~~134 percent of 28.789 percent of the full scale contribution~~  
18 ~~rate (FSCR) and the amount set forth in subparagraph~~  
19 ~~27(B)(3)(a) [134 percent of the normal annual cost of benefits~~  
20 ~~of the full scale contribution rate (FSCR) for employees set~~  
21 ~~forth in Section 2(D)], but no less than 134 percent of 3~~  
22 ~~percent of the full scale contribution rate (FSCR).~~

23           ~~(4) Notwithstanding any other provision of this~~  
24 ~~contract, the City's contributions to the 13th check program~~  
25 ~~shall not require the City to make additional contributions to~~  
26 ~~the 13th check program to reimburse the 13th check account for~~  
27 ~~the contributions the City would have otherwise made to the~~  
28 ~~13th check program had it contributed thereto for the period~~  
29 ~~of October 1, 1998, through September 30, 2001.~~

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

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

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

7           (c) If a retired member is eligible on October 1 but  
8 dies before payment of the 13th check ~~by~~ in the following June  
9 30 ~~January~~, the retired member's spouse shall receive the full  
10 amount of the payment, and if there is no surviving spouse,  
11 the retired member's designated beneficiary or beneficiaries,  
12 or if none, the retired member's estate shall receive the  
13 payment.

14           (2) The Board of Trustees shall establish by rule  
15 adopted no later than May 31, 2002, and each May 31  
16 thereafter, ~~December 15, 1998,~~ the amount of the 13th check  
17 funded pursuant to Section 27(B)(1), subject to the following:

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

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

27           (D) Conflict of Laws.--To the extent that any  
28 provision of this section is in conflict with sections  
29 112.60-112.67, Florida Statutes, or those provisions of  
30 chapters 175 and 185, Florida Statutes, that apply to local  
31 law plans established by municipal ordinance or special act,



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1 or provisions of Florida Statutes made applicable to pension  
2 funds established by special act, or to the extent that any  
3 provision of this section would result in the loss of tax  
4 exempt status of the Pension Fund, the Board of Trustees is  
5 hereby delegated the authority to adopt by rules changes to  
6 this section in order to comply with said laws, which shall  
7 have the force of law and shall be considered part of this  
8 pension contract.

9 (E) Administration of Program.--The Board of Trustees  
10 shall make such rules as are necessary for the effective and  
11 efficient administration of this section, provided that such  
12 rules are not inconsistent with the terms of any collective  
13 bargaining agreement entered into by the City and the  
14 certified bargaining agents for firefighters and police  
15 officers concerning the 13th Check Program. Notwithstanding  
16 any other provision of this section to the contrary, any  
17 provision of this section shall be construed and administered  
18 in such manner that such program will qualify as a qualified  
19 governmental pension plan under existing or hereafter enacted  
20 provisions of the Internal Revenue Code of the United States,  
21 and the Board of Trustees may adopt any rule to accomplish the  
22 purpose of this section as is necessary to retain tax  
23 qualification, which rules shall have the force of law and  
24 shall be considered part of this pension contract.

25 Section 2. This act is only an enabling act, and the  
26 execution by the City of Tampa of the aforesaid supplemental  
27 contract and entitlement to the pension benefits referred to  
28 in this act for all firefighters and police officers,  
29 regardless of whether or not in the respective certified  
30 bargaining unit for firefighters or police officers, is  
31 contingent upon contractual agreement through the collective

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1 bargaining process between the City of Tampa and each of the  
2 respective certified bargaining agents for firefighters and  
3 police officers.

4           Section 3. The City of Tampa Firefighters and Police  
5 Officers Pension Contract as prescribed by Section 28-17 of  
6 the City of Tampa Code {Ordinance No. 4746-A, enacted  
7 September 30, 1969}, as amended by Section 28-19 of the City  
8 of Tampa Code {Ordinance No. 6038-A, enacted September 17,  
9 1974}, pursuant to chapter 74-613, Laws of Florida; as further  
10 amended by Ordinance No. 89-314, enacted December 21, 1989,  
11 and approved, ratified, validated, and confirmed by chapter  
12 90-391, Laws of Florida; and as further amended by chapter  
13 92-231, Laws of Florida, chapter 94-463, Laws of Florida,  
14 chapter 98-515, Laws of Florida, and chapter 2000-485, Laws of  
15 Florida, is in all other respects approved, ratified,  
16 validated, and confirmed.

17           Section 4. The benefits provided for herein by Section  
18 1 and the changes to the pension contract provided for herein  
19 by Section 1 for active and contributing members on the date  
20 this act becomes a law shall be made available in one  
21 supplemental pension contract, and a member shall not be  
22 permitted to select some of said benefits and reject others of  
23 said benefits. Any active or contributing member on the date  
24 this act becomes a law who fails to sign said supplemental  
25 pension contract before October 1, 2001, shall be forever  
26 barred from receiving said benefits and shall not be required  
27 to make any contributions required as a result of such  
28 benefits. However, any person who becomes a member of the  
29 City Pension Fund for Firefighters and Police Officers in the  
30 City of Tampa on or after the date this act becomes a law,  
31 shall be required as a condition of membership into said

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1 pension fund to sign a pension contract which includes the  
2 provisions of Section 1, and shall be required to make the  
3 contributions required as a result of such benefits.

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

11 Section 6. If the City of Tampa enters into a  
12 supplemental pension contract as provided in Section 1 of this  
13 act, each retired firefighter and retired police officer who  
14 is living on the date this act becomes a law, and each member  
15 who retires or dies after this act becomes a law, but before  
16 October 1, 2001, and each qualifying surviving spouse, who is  
17 living on the date this act becomes a law, is entitled to  
18 receive the same benefits from the 13th check account upon the  
19 same basis as if the member's contract had been supplemented  
20 in the manner provided by Section 1 of this act before the  
21 member's separation from service; provided however said  
22 retired firefighter, retired police officer and eligible  
23 surviving spouse as a condition of participation in the 13th  
24 check program shall be subject to the provisions of Section  
25 6(3) and Section 24 of the pension contract.

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

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30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 Delete everything before the enacting clause  
2  
3 and insert:  
4 A bill to be entitled  
5 An act relating to the City of Tampa,  
6 Hillsborough County, and particularly to the  
7 City Pension Fund for Firefighters and Police  
8 Officers in the City of Tampa; authorizing the  
9 City of Tampa to enter into a supplemental  
10 contract with certain firefighters and police  
11 officers to provide for an employer pick-up  
12 provision so that employee pension  
13 contributions can be made on a pre-tax basis;  
14 providing for additional authorized  
15 investments; restructuring the 13th Check  
16 Program; providing an effective date.  
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