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DATE: March 26, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 899

RELATING TO: Tampa/Firefighters & Police Pension

SPONSOR(S): Representatives Murman and others

TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
 - (2) STATE ADMINISTRATION (SGC)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill authorizes the City of Tampa to enter into a supplemental contract with certain firefighters and police officers to provide for an increase in the accrual of benefits from 2.5 percent to 2.75 percent, for each year of service.

Regarding the bill as introduced, fiscal impacts are indeterminate, as an actuarial impact statement has not been provided.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill. (See II.C. "EFFECT OF PROPOSED CHANGES" section.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

State Constitution

Article X, Section 14, Florida Constitution, provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis.

Statutory Authority

The Legislature adopted Part VII, Chapter 112, F.S., to implement the provisions of Article X, Section 14, Florida Constitution. Part VII, Chapter 112, F.S., also establishes minimum standards for operating and funding public employee retirement systems and plans.

Local police and firefighter pension and retirement plans are reviewed by the Retirement Administrator of Municipal Police Officers and Firefighters Retirement Funds, of the Bureau of Local Retirement Systems, State Division of Retirement. Chapters 175 and 185, F.S. provide statutory authority for this program. The program was established to provide a uniform retirement system for the benefit of firefighters and police officers. The retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the Municipal Police Officers Retirement Trust Funds and the Firefighters Pension Trust Funds.

City of Tampa Firefighters and Police Pension Fund

The Firefighters and Police Pension Fund for the City of Tampa was enacted through special act in 1933 (ch. 16721, L.O.F.) Since that time, the act has been amended twenty-two times, through chs. 21590 (1941), 22475 (1943), 23560 (1945), 23572 (1945), 23573 (1945), 23574 (1945), 23575 (1945), 23576 (1945), 23577 (1945), 23578 (1945), 24919 (1947), 24945 (1947), 24920 (1947), 26267 (1949), 26266 (1951), 27930 (1951), 74-613, 90-391, 91-379, 92-231, 98-515, and 2000-485, L.O.F.

Ch. 74-613, L.O.F., provided for a supplemental contract for police and firefighters who were participants of the City Pension Fund previously, or who may enter into a future pension contract with the City. Ch. 74-613, L.O.F., as amended, provides that any member of the City of Tampa's Firefighters and Police Pension Fund is eligible to receive a twenty-five percent benefit of the

member's average earnings for the first ten years of service, with an additional 2.5 percent of the member's average earnings for each additional year of service. The amount may not exceed a total pension of 100 percent of average earnings.

C. EFFECT OF PROPOSED CHANGES:

House Rule 5.6(b)

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill.

Section 166.021(4), F.S., requires a referendum of the electors whenever rights of municipal employees are affected. This bill does not provide for a referendum.

Therefore, this bill appears to create an exception to general law.

Bill Impact

This bill specifically increases the percentage of earnings calculated for a pension, from 25 percent to 27.5 percent for ten years of service and from 2.5 percent to 2.75 percent, for after ten years of service.

This bill specifies that it only provides enabling language, and the effect of the bill is contingent upon a subsequent contractual agreement.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends subparagraph 7 (A) of the City of Tampa Firefighters and Police Officers Pension Contract as prescribed by S. 28-17 of the City of Tampa Code (Ord. No. 4746-A (1969)), as amended by S. 28-19 of the City of Tampa Code (Ord. No. 6038-A (1974)), pursuant to ch. 74-613, L.O.F., as further amended by ch. 92-231, L.O.F.; provides for the following formula to be used for supplemental firefighter and police officer pension contracts: a member of the Fund with an aggregate of ten years service, who is at least 46 years old, will receive a pension at the rate of 27.5 percent of the member's average earnings for the three highest years within the last ten years of service, above ten years of service, will receive 2.75 percent of average earnings; provides for the same level of increase for certain participants in Division B of the General Employees Pension Plan.

Section 2. Clarifies that this act is only an enabling act and that a contractual agreement is required prior to implementation of the supplemental contract and entitlement to pension benefits.

Section 3. Provides for the approval, ratification, validation, and confirmation of S. 28-17 of the City of Tampa Code (Ord. No. 4746-A (1969)), S. 28-19 of the City of Tampa Code (Ord. No. 6038-A (1974)), ch. 74-613, L.O.F., ch. 89-314, L.O.F., 90-391, L.O.F., ch. 92-231, L.O.F., 94-463, L.O.F., 98-515, L.O.F., and 2000-485, L.O.F.

Section 4. Provides that this act takes effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

February 4, 2001

WHERE?

The Times, an edition of the St. Petersburg Times.

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

According to the Economic Impact Statement, an actuarial statement has not been ordered.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

A Division of Retirement, Department of Management Services analysis, to the bill as introduced, indicates the following:

This bill affects neither the Florida Retirement System nor the Florida Retirement System's Trust Fund. This bill complies with the requirements of Article X, Section 14 of the Constitution. This bill does not satisfy the actuarial cost impact statement provisions of Chapter 112, Part VII, Florida Statutes. An actuarial impact statement has not been made available to us. We have been informed that the collective bargaining has not yet been concluded.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Sponsor of this bill proposes a strike-everything, representing compromise language negotiated between the City and the police officers and firefighters unions, which departs from the bill as introduced in the following manner:

- Deletes the language providing for an accrual rate increase;
- Requires that starting with the first pay date after January 1, 2002, all mandatory employee contributions to the Fund are actually to be paid by the City, instead of the employee, and will be considered as tax-deferred employer "pick-up" contributions, under the Internal Revenue Code,

clarifies that the Fund pays these contributed amounts directly to the Fund, not through the member;

- Authorizes foreign investments up to a maximum of ten percent of the Fund investments;
- Provides that under the 13th Check Program, which pays a distribution once during the year, based on availability of funds, eligible members receive this supplemental pension distribution in the month of June, rather than January, provides that effective October 1, 2001, the 13th Check Account will operate exclusively out of investment returns, therefore, employee contributions will continue only until the last pay period before October 1, 2001, specifies that the 13th Check Account is funded by investment returns above 10 percent, capped at 3 percent; clarifies that the City is not required to contribute toward this program.

According to the Economic Impact Statement, as well as the Actuarial Impact Statement, both drawn to the strike-everything amendment, there is no additional fiscal impact. The Actuarial Impact Statement reads, in part:

Based upon our understanding of State funding rules, there will be no immediate increase in the State minimum required contribution for the System resulting from the restructured 13th Check Program. This is a result of the simplified model the State requires to determine the minimum-funding requirement. Under the State model, costs are determined assuming that the long-term rate of return will be realized each year. That is, since the System contribution requirements assume that the long-term rate of return of 10% will be earned in each year, benefits based upon fund performance above the assumed rate of 10%, are not expected to occur in determining State minimum-funding requirements.

While international investments are authorized, we are unaware of any immediate change in asset allocation. We understand that the increased flexibility is intended to improve future investment return. In our opinion, this authorization does not have an actuarial impact on current State required funding under the System.

A Division of Retirement analysis, examining the fiscal impact of the strike-everything amendment, provides, in part:

This bill affects neither the Florida Retirement System nor the Florida Retirement System's Trust Fund. This bill complies with the requirements of Article X, Section 14 of the Constitution. There are no benefit changes. However, the funding for an existing benefit is being changed so that it is funded solely by favorable investment experience. Other provisions of the existing special acts, as amended, require the Board of Trustees to adopt such changes as necessary to comply with the requirements of Part VII, Chapter 112, Florida Statutes. Such requirements include the option of funding additional benefits from the net favorable cumulative actuarial gains and losses from all sources and not solely from favorable investment experience. This bill does not contravene the actuarial impact statement requirements of Part VII, Chapter 112, Florida Statutes. There are no costs applicable to this bill.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

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