POLICY MANUAL

FIREFIGHTERS & POLICE OFFICERS PENSION FUND OF THE CITY OF TAMPA

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BOARD OF TRUSTEES
CITY PENSION FUND FOR FIREFIGHTERS AND
POLICE OFFICERS IN THE CITY OF TAMPA
D/B/A TAMPA FIRE & POLICE PENSION FUND
3001 North Boulevard
Tampa, FL 33603
(813) 274-8550

TRUSTEES	TERM
CORPORAL MATTHEW BELMONTE TAMPA POLICE DEPARTMENT	ELECTED/POLICE -10/31/2021
SERGEANT DOUGLAS BURKETT, VICE CHAIRMAN TAMPA POLICE DEPARTMENT	ELECTED/POLICE - 10/31/2019
FIREFIGHTER JOHN CANNON TAMPA FIRE RESCUE	ELECTED/FIRE - 10/31/2021
SHARON R. FOX TAX REVENUE COORDINATOR	APPOINTED BY MAYOR - 10/31/2019
CAPTAIN TREVOR HALL TAMPA FIRE RESCUE	ELECTED/FIRE -10/31/2020
LIEUTENANT PATRICK R. MESSMER TAMPA POLICE DEPARTMENT	ELECTED/POLICE - 10/31/2020
OCEA LATTIMORE, SECRETARY DIRECTOR OF LOGISTICS & ASSET MANAGEMENT	APPOINTED BY MAYOR - 10/31/2020
DISTRICT CHIEF GREGORY P. REED, CHAIRMAN TAMPA FIRE RESCUE	ELECTED/FIRE - 10/31/2019
DENNIS ROGERO CHIEF OF STAFF	APPOINTED BY MAYOR - 10/31/2021

CITY OF TAMPA FIREFIGHTERS AND POLICE OFFICERS PENSION CONTRACT

THIS AGREEMENT, made and entered into this _____ day of _____, _____ [print today's date] by and between the City of Tampa, a municipal corporation under the laws of the State of Florida (hereinafter referred to as "City" or party of the first part), and _____ [print your name here] (hereinafter referred to as "Employee" or party of the second part), for the purpose of providing retirement and other ancillary benefits to Employee in recognition of service with the City as a firefighter or police officer.

Name Printed:_____ Fire _____ or Police _____ ID #:_____

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of various Special Acts of the State of Florida and Ordinances of the City of Tampa, the City of Tampa is authorized and empowered to enter into a pension contract with each and every firefighter and police officer who is employed by the City of Tampa, who is authorized to join the City Pension Fund for Firefighters and Police Officers in the City of Tampa, and elects to do so, as follows:

SECTION 1. There is hereby created a special fund to be known as the City Pension Fund for Firefighters and Police Officers in the City of Tampa (hereinafter referred to as the Fund); said Fund to be used exclusively for the purpose provided for in this Act, which Fund shall be collected, administered, and disbursed according to the provisions of this Act.

SECTION 2. The said Pension Fund shall consist of monies and properties derived from the following sources, which shall be set apart and placed to the credit of such Fund:

(A) The monies and assets now deposited to the credit of and held by the City Pension Fund for Firemen and Policemen of the City of Tampa.

(B) Commencing October 1, 1969, the City shall contribute eleven per centum (11%) of all earnings of employees covered under this contract, which contribution shall be deposited in the Fund at least quarterly. Commencing October 1, 1970, the City shall contribute at the rate of thirteen per centum (13%), and shall continue to increase the rate of contributions by two per centum (2%) on each October 1 thereafter, until such time as a continuation of the then current rate of contribution (or lesser rate of contribution), together with contributions provided for in Section 2(C), Section 2(D), and contributions expected from other sources, shall, pursuant to the most recent actuarial report, be sufficient if continued at such level, to fund:

(1) The normal annual cost of the benefits other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than the 13th check benefits pursuant to Section 27, provided for in this contract; and

(2) Any remaining unfunded past service cost of such benefits over a period of thirty years from the date of the last actuarial report;

(3) Where such costs are determined on a basis consistent with the requirements of actuarial soundness, and the requirements of Chapters 175 and 185 of the Florida Statutes, as they may be amended from time to time, provided that the investment yield assumed in determining such costs shall not exceed 5%. After such time the City shall contribute at such rate of earnings which will be sufficient, if continued, to fund the normal cost each year and the remaining unfunded past service cost over a period of thirty years from the date of the most recent actuarial report received from time to time;

(4) Provided, however, that in no case shall the contributions by the City in any year, and exclusive of income from other sources, be less than 133, or 134 percent if paid quarterly, of the total sum contributed by employees as provided in (D) below, excluding contributions for the 13th check benefit; it being expressly understood that when the requirements for continued actuarial soundness of the plan are determined to require less contributions than would result hereby, the contributions from the City and employees will be proportionately reduced to rates which will reasonably generate such reduced amount.

(C) The City shall make additional contributions each year as follows:

(1) In the event that the average earnings of all of the members covered under this contract for any twelve month period ending September 30 (determined for this purpose as the total earnings for such period divided by the average of the number of members covered at the beginning and end of the period), shall exceed the similar average earnings for the preceding twelve month period by A%, then commencing on October 1 an additional annual contribution shall be made by the City, equal to A% multiplied by the total earnings for the twelve months preceding such October 1, and multiplied by the pension cost factor associated with such increases as set forth in the most recent actuarial report received from time to time, subject to (2) below;

(2) Such additional contributions, together with contributions similarly determined in previous years, shall continue to be paid each year on a cumulative basis until the contributions from all sources (other than investment income) shall meet the standards set forth in Section 2(B)(1), (2), (3), and (4) after which time such contributions shall be reduced as provided for in the most recent actuarial report received from time to time.

(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, subject to a minimum annual contribution of not less than one-half of one percent (0.5%) of the total earnings of each such employee, 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 deposited in the Fund immediately after each pay period:

Earnings in Twelve-Month Period Commencing October 1	Employee Contribution Rate
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.

(E) All monies and assets which shall be received by the Board for deposit to the credit of or for the account of the Fund from all other sources including the State of Florida.

(F) No monies raised by taxation or otherwise provided for said Pension Fund shall be used other than for the purposes of this Act.

(G) To the extent that the City of Tampa provides for the payment of benefits otherwise payable by the City Pension Fund for Firefighters and Police Officers in the City of Tampa but for the limits in Section 415 of the Internal Revenue Code, then there shall be a reduction in the amount of the City's contributions otherwise payable to the City Pension Fund for Firefighters and Police Officers in the City of Tampa by an amount equivalent to the amount of benefits provided for by the City of Tampa; provided, however, such amounts shall be included in the calculation of the City's contributions to the City Pension Fund for Firefighters and Police Officers in the City of Tampa pursuant to Section 2(B) of this pension contract.

(H) Notwithstanding the contribution rate schedule set forth herein, the contribution rate of each firefighter and police officer who on October 15, 1992 was a member in Division B of the General Employees' Pension Plan for the City of Tampa, who becomes a member of this Fund, shall be reduced by such firefighter's or police officer's social security contribution, and the City shall pay to the Fund the amount by which such employee's contribution is reduced by the end of the calendar quarter. For purposes of this section, the term "social security contribution" shall mean that amount required to be paid by such firefighter or police officer pursuant to Section 3111(a) of the Code (regarding contributions toward the Old-Age, Survivors, and Disability Insurance). Notwithstanding any adjustment that may be required herein, the total annual contribution required of said firefighter or police officer shall not be less than one-half of one percent (0.5%) of the total earnings of each such firefighter or police officer, or such other amount as is required by Chapter 175 or Chapter 185, Florida Statutes, in order for this Pension Fund to participate in the distribution of the tax funds established by Chapter 175 or Chapter 185, Florida Statutes.

(I) Notwithstanding any other provision of this pension contract, as amended, to the contrary, to the extent that the contribution rate of the firefighter or police officer who was a member in Division B of the General Employees' Pension Plan for the City of Tampa, is less than such firefighters' or police officer's social security contribution made for the same period, such firefighter or police officer shall be entitled to a special payment from the City of Tampa in an amount equal to such excess plus the amount of the tax allowance (as defined below). Payments made pursuant to this subsection (including the tax allowance) shall constitute special payments and are not included as earnings. For purposes of this subsection, such firefighter's or police officer's "tax allowance" shall approximate:

(1) the amount necessary to compensate the firefighter or police officer to the extent of any increase in the firefighter's or police officer's federal, state and local income taxes which occur as a result of the inclusion of the special payment made pursuant hereto in such firefighter's or police officer's taxable income; plus

(2) an amount necessary to compensate the firefighter or police officer for the net increase in the taxes described in subparagraph (1) above as a result of the inclusion in such firefighter's or police officer's taxable income of any payment made pursuant hereto.

The amounts described in (1) and (2) above shall be calculated by multiplying the special payment by the gross up percentage of such taxable year. The "gross up percentage" for any year shall be determined by utilizing the following formula, with the "tax rate" being the sum of (i) the highest percentage income tax rate determined pursuant to Section 1(a) of the Code (for married individuals filing joint returns) applicable for the taxable year in which such payments will be included in taxable income, based on the annualized average rate of monthly salary for those firefighters and police officers receiving the special payments, plus, to the extent applicable, (ii) the rate specified under Section 3111(a) of the Code:

"[(1 / (1 - tax rate)] - 1"

The tax allowance shall be paid to the firefighter or police officer by the City of Tampa. Payment of the tax allowance shall be made on or before the last day of the calendar year to which such special payment relates. For purposes of this subsection the "annualized average rate of monthly salary" shall be the average of the scheduled or stated amount of monthly compensation (without regard to compensation actually paid) of that group of firefighters or police officers who are entitled to special payments herein for the last month of the Plan Year annualized for such Plan Year.

(J) For each firefighter and police officer, who on October 15, 1992 was not a member of this Fund, but who becomes a member of this Pension Fund, for service occurring on and after October 16, 1992 until said firefighter or police officer is formally accepted into membership by the Board of Trustees, the City shall pay within thirty (30) days of acceptance the employee contributions that otherwise would have been paid pursuant to Section 2 of this pension contract, plus interest at the rate of ten percent (10%) per annum. The City shall also pay by the end of the calendar quarter in which said firefighters and police officers were formally accepted the City of Tampa contributions that otherwise would have been paid pursuant to Section 2 of pension contract, plus interest at the rate of ten percent (10%) per annum. Notwithstanding the provisions of Section 22, there shall be no refund of employee contributions which are paid by the City of Tampa on behalf of such firefighters and police officers.

(K) Notwithstanding any other provisions of this section, the City and the employees shall make additional contributions to the 13th Check Benefit Program to the extent set forth in Section 27.

SECTION 3. When used herein the following terms shall have the following meanings:

(A) The term "employee" shall mean any member of the Fire or Police Department employed as a firefighter or police officer, and whose employment shall be regular and continuous and not of a temporary character.

(B) The terms "firefighter" and "police officer" shall be synonymous with the term "employee" as defined above.

(C) The term "member" shall mean an employee contributing or required to contribute to the Fund and entitled to participate in the benefits thereof upon the terms and conditions hereof.

(D) The terms "widow" and "widower" shall mean the lawful wedded spouse of a member of the Fire or Police Department at the time of such member's death.

(E) Commencing for earnings paid the first pay date after October 1, 2004, the term "earnings" shall mean total cash remuneration paid by the City to a firefighter or police officer for services rendered, including any payments required to be included within the definition of compensation pursuant to Chapters 175 and 185, Florida Statutes, but not including any payments for extra duty. Commencing for earnings paid the first pay date after October 1, 2004, earnings shall also include payments for overtime paid by the City to a firefighter or police officer up to a maximum of 300 hours of overtime per calendar year.

(F) The term "actuary" shall mean a Fellow or Associate of the Society of Actuaries, or a firm employing such person, provided that such firm must be nationally recognized in the actuarial field and acceptable to the State Treasurers Office and to the Board of Pension Trustees.

(G) The term "actuarial report" shall mean a report prepared at least once every three years and in any year in which the average earnings of members increases more than two per centum (2%) of the average earnings the year before, and in any year in which the same shall be required by Chapters 175 and 185, Florida Statutes; such study to be prepared by an actuary and accepted by the Board of Trustees; determining the costs of all benefits provided for under this Act as a result of employment of members and former members, including a review of experience and a determination of a pension earnings increase factor or factors, and including determination of the effect of adjustments for expected cost-of-living index changes, based upon the data current as of the effective date of the report; and, based upon cost methods, factors, and assumptions consistent with actuarial soundness, and acceptable to the State of Florida as being consistent with the requirements of Chapters 175 and 185 of the Florida Statutes as they may be from time to time amended.

(H) Wherever the term "he" or "him" appears herein the same shall also include "she" or "her" when applicable.

(I) The term “primary beneficiary” shall mean the beneficiary designated by the member to receive benefits payable, if any, in the event of the member’s death.

(J) The term “contingent beneficiary” shall mean the beneficiary or beneficiaries designated to receive benefits payable, if any, in the event of the member’s death and the primary beneficiary has predeceased the contingent beneficiary(ies).

(K) The term “joint annuitant” shall mean the person designated by the employee to participate with the employee in one of the optional forms of benefits. The term “joint annuitant” does not apply to the definition of a spousal beneficiary in the option for normal retirement.

(L) The term “normal retirement” shall mean retirement after earning ten (10) years of creditable service and the attainment of age forty-six (46) or retirement after earning twenty (20) years of service, regardless of age, in both cases the member may begin to immediately draw benefits.

SECTION 4. Except as otherwise provided herein, before any person shall become a member of the Pension Fund he or she shall:

(1) be not more than any applicable entry-level age limit established by federal law;

(2) be required to furnish a list of all of their medical providers and authorizations to obtain such medical records;

(3) pass a complete medical examination including, but not limited to, echo-cardiogram, functional examination of the back and neck, and any other specific diagnostic tests as determined by the Medical Board based upon the individual’s risk factors, medical history and physical examination; and

(4) meet all the requirements of the Civil Service Board of the City except the probationary period.

Such medical records and medical examination also shall be utilized by the Board of Trustees for purposes of establishing baseline medical conditions for reviewing any future claims for disability benefits. Each active firefighter and police officer, who on October 15, 1992 was not a member of this Fund because of his or her age, shall become a member of this Fund, provided said person within thirty (30) days of receipt of written notice from the City of Tampa does not file a written election with the City of Tampa and the Board of Trustees of this Fund electing not to join this Fund, but instead to remain a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended. Each active firefighter and police officer, who on October 15, 1992 was not a member of this Fund and becomes a member of this Pension Fund shall furnish to the Board of Trustees a list of all of their medical providers and authorizations to obtain such medical records within a reasonable period of time as established by the Board of Trustees. Each firefighter and police officer shall also undergo a medical examination by the medical board at the expense of the Board of Trustees for purposes of establishing baseline medical conditions for reviewing any future claims for disability benefits. Any person who is initially employed on or after October 16, 1992, without prior creditable service in this Pension Fund by the City of Tampa for a position with the fire department or

police department which position is in the unclassified service, as defined by the Civil Service Law of the City of Tampa and the City of Tampa Civil Service Rules and Regulations, shall not be eligible to join this Pension Fund.

SECTION 5. The general administration and responsibility for the proper operation of the pension system and for making effective the provisions of this Act are hereby vested in a board consisting of nine persons, as follows:

(1) Three members of the City Administration other than firefighters or police officers to be appointed as hereinafter provided;

(2) Three members of the Fire Department to be elected as hereinafter provided; and

(3) Three members of the Police Department to be elected as hereinafter provided.

(A) The term of office of each trustee shall be three years, except that the initial terms of the trustees of each class shall respectively be for one, two, and three years. The initial terms shall commence on the 60th day after the ordinance approving and authorizing this contract shall become a law.

(B) The appointive trustees shall be appointed by the Mayor.

(C) The elective trustees shall be elected in the following manner, to wit: by per capita vote of all members of each of said respective departments who come within the purview of this Act, both active and retired, at elections to be held at places designated by the Board, at which elections all qualified members entitled to vote shall be notified in person or by mail ten days in advance of said election. The candidate receiving the majority of votes for each office shall be declared elected and shall take office immediately upon commencement of the term of office for which elected or as soon thereafter as he shall qualify therefor. An election shall be held each year not more than sixty (60) and not less than ten (10) days prior to the commencement of the terms for which trustees are to be elected in that year. The Board of Trustees shall meet, organize, and elect one trustee as chairman, one trustee as vice chairman, and one trustee as secretary within ten days after any trustees are elected and duly qualified.

(D) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(E) The trustees shall serve without compensation, but they may be reimbursed from the expense fund for all necessary expenses which they may actually expend through services on the board.

(F) Each trustee shall, within ten days after his appointment or election, take an oath of office before the City Clerk of said City, that so far as it devolves upon him he will diligently and honestly administer the affairs of the said Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the member making it and certified by the said clerk and filed in his office.

(G) Each trustee shall be entitled to one vote on the Board. Five votes shall be necessary for a decision by the trustees at any meeting of the Board. The chairman shall have the right to one vote only.

(H) Subject to the limitations of this Act the Board of Trustees shall from time to time establish rules and regulations for the administration of funds created by this Act and for transaction of its business, including provisions for compulsory attendance of its members, which shall have the force of law.

(I) The Board of Trustees shall by majority vote of its members appoint a secretary, who may, but need not be, one of its members. It shall engage such actuarial and other services as shall be required to transact the business of the pension system. The compensation of all persons engaged by the Board of Trustees and all other expenses of the Board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the Board of Trustees shall agree, but in no case shall the expenditures for such services or operations exceed three per cent of the maximum of the fund each fiscal year. All funds shall be disbursed by the Board of Trustees. The secretary shall be bonded in such amount, not less than five thousand dollars, as the Board shall determine. The premium for said bond to be paid out of this fund.

(J) Any trustee who neglects the duties of his office shall be removed by the Board of Trustees.

SECTION 6. Money shall be withdrawn from the Pension Fund created by this Act only upon warrants executed by a majority of the Board of Trustees. Monies needed for the meeting of the current obligations of said fund may be deposited in a depository recognized by law for the deposit of funds of the State of Florida and upon the posting of similar security for that required for state deposits. The Board shall have exclusive charge of the investment of any surplus in said fund not needed for the current obligations thereof; and said funds shall be managed by said Board and shall be invested by said Board in accordance with the following:

(1) That the Board shall retain the services of one or more nationally recognized professional investment counselors.

(2) That not less than once every six (6) months a written opinion shall be obtained from the investment counselor or counselors as to the overall condition and composition of the investment portfolio.

(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 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 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 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 twenty-five per centum (25%) of said fund, based on the total market 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. The investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law.

SECTION 7. **BENEFITS, PENSIONS TO MEMBERS**. The Board shall upon its application retire:

(A) Any member of the Fund having an aggregate of 10 years of service as defined in Section 17 in said departments, and having reached the age of 46 years, who then shall receive in monthly installments a pension equal to 31.5 percent of the member's average earnings for the three (3) highest years within the last 10 years of service for a period of ten (10) years certain and life. For each additional year of such service after 10 years, a member shall receive 3.15 percent of average earnings, not to exceed a total pension of 100 percent of said average earnings for a period of ten (10) years certain and life. After 10 years of service as defined in Section 17, this pension right shall be a vested right with the payment thereof to begin upon the employee's separation from the service or the employee's reaching the age of 46 years, whichever occurs later, so that an employee having 10 or more years of such service who resigns, retires, or is otherwise separated from the service prior to reaching the age of 46 years may elect to allow his contributions to remain in the Pension Fund and upon reaching the age of 46 years shall be entitled to commence receiving a pension based upon his service as herein provided, and should such employee die before reaching 46 years of age, then at the time that decedent would have reached 46 years of age the widow or widower shall receive such benefit as the widow or widower would have received under subparagraph 9(C) if the employee had died while receiving a pension. Provided however, any member of the Pension Fund who was actively employed as a firefighter or police officer in the City of Tampa on or after October 1, 2003, or a member of the Fund on or after October 1, 2003, and, prior to October 16, 1992, was a participant of Division B of the General Employees Pension Plan as established by chapter 81-497, Laws of Florida, as amended, shall receive benefits from this Pension Fund at the rate of 3.15 percent of average earnings for each year of service in this Pension Fund, provided however, the 3.15 percent accrual shall not apply to any service while the member was a participant of Division B of the General Employees Pension Plan; provided, further, that upon reaching social security normal retirement age, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) Any member who in the service has received or shall receive within or without the city any injuries, disease or disability, which injury, disease or disability now permanently incapacitates him physically or mentally from regular and continuous duty as a firefighter or police officer, then he shall receive in equal monthly installments an amount equal to 65% of monthly salary in effect at date of disability retirement, plus 1/12 of any other earnings received within one year prior to date of disability retirement for a period of ten (10) years certain and life. For any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(C) Any member of the fund who has completed ten (10) years of creditable service and becomes permanently incapacitated, physically or mentally, from regular and continuous service as a firefighter or police officer as a result of any injury, disease or disability which is not incurred in the service of the City, shall receive in equal monthly installments for a period of ten (10) years certain and life an amount equal to the greater of (1) 2% of his average salary (as above computed) for each year of service with a minimum of 25% and a maximum of 50% of average salary or (2) the accrued benefit under Section 7(A) based upon years of service and average salary determined as of the date of disability. For any member of this Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age, or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(D) Notwithstanding the foregoing, any member of this Pension Fund having an aggregate of 20 years of service as a firefighter or police officer in said departments either in this Pension Fund or Division B of the General Employees Pension Plan, or a combination thereof, may elect to enter into the Deferred Retirement Option Program (DROP), or, if the member separates from the service as a firefighter or police officer, may elect to commence immediate receipt of benefits regardless of age.

(E) In lieu of the amount and form of pension payable as provided in Section 7(A), Section 7(B) or Section 7(C) of

this contract, a member, upon written request to the Board and subject to the approval of the Board, may elect to receive a pension of equivalent actuarial value payable in accordance with one of the following options:

(1) A pension of a larger monthly amount, payable to the member for his lifetime only;

(2) A pension of a modified monthly amount, payable to the member during the joint lifetime of the member and a joint annuitant designated by the member, and following the death of either of them, 100 percent, 75 percent, 66 2/3 percent, or 50 percent of such monthly amounts payable to the survivor for the lifetime of the survivor;

(3) Such other amount and form of pension as, in the opinion of the Board, will best meet the circumstances of the retiring member.

No member may make any change in his retirement option after the date of cashing or depositing the first pension check.

(F) Upon electing one of the optional forms of pension income, the member shall designate the joint annuitant or beneficiary (or beneficiaries) to receive the benefit, if any, payable under this Fund in the event of the member's death, and the member will have the power to change such designation from time to time, but any such change shall be deemed a new election and will be subject to approval by the Board. Such designation will name a joint annuitant or one or more primary beneficiaries where applicable. If a member has elected an option with a joint annuitant or beneficiary, and his pension has commenced, the member may thereafter change the designated joint annuitant or beneficiary, but only if the Board consents thereto, and only if the joint annuitant last previously designated by the member is alive when the member files a request for such change in writing with the Board. The consent of the member's joint annuitant or beneficiary to any such change shall not be required. The Board may request such evidence of the good health of the joint annuitant that is being removed as it may require, and the amount of the pension payable to the member upon designation of a new joint annuitant shall be actuarially redetermined taking into account the age and sex of the former joint annuitant, the new joint annuitant, and the member. Each such designation shall be made in writing on a form prescribed by the Board and filed with the Board. In the event that no designated beneficiary survives the member, such benefits as are payable in the event of the member's death subsequent to his retirement shall be paid to the member's estate. Pension payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(1) If a member dies prior to retirement, benefits, if any, will be payable in accordance with Section 8 or 9 of this contract;

(2) If the designated beneficiary (or beneficiaries) or joint annuitant dies before the member's retirement, the option elected will be cancelled automatically and a pension as provided for pursuant to Section 7(A), Section 7(B) or Section 7(C) of this contract will be payable to the member upon retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the member prior to retirement and within 90 days after the death of the beneficiary;

(3) If both the retired member and the beneficiary (beneficiaries) designated by the member die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, the Board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum to the member's estate;

(4) If a member continues to work beyond his normal retirement date pursuant to the provisions of this section, and dies from causes not attributable to active duties prior to actual retirement and separation from service, while a monthly retirement benefit option has been elected by the member, monthly pension payments will be made, under the selected option to a beneficiary (or beneficiaries) designated by the member in the amount computed as if the member had retired under the option on the date on which death occurred.

(G)

(1) Each member may designate in writing to the Board, on a form prescribed by the Board, a choice of one or more persons, named sequentially or jointly, as his beneficiary (or beneficiaries) to receive the benefit payable pursuant to Section 8(F) or Section 9(E), if any, which may be payable in the event of the member's death; and each designation may be revoked by the member by signing and filing in writing with the Board a new designation of beneficiary form.

(2) A retired member may change his designation of joint annuitant or beneficiary only twice.

(3) If no beneficiary is named in the manner herein provided, death benefits shall be paid pursuant to Section 8(A)-(E) or Section 9(A)-(D). If there are no persons eligible for benefits pursuant to Section 8(A)-(E) or Section 9(A)-(D), and if no beneficiary designated by the member survives the member, the death benefit, if any, which may be payable under this contract with respect to such deceased member shall be paid by the Board to the estate of such deceased member, provided that the Board, in its discretion, may direct that the commuted value of the remaining monthly pension payments be paid in a lump sum. Any payment made to any person pursuant to this subsection shall operate as a complete discharge of all obligations under this contract with regard to the deceased member and any other persons with rights under this contract and shall not be subject to review by anyone, but shall be final, binding, and conclusive on all persons ever interested hereunder.

(H) If the monthly pension payable to any person entitled to benefits under this contract is less than $100, or if the single-sum value of the accrued pension is less than $5,000 for firefighters and $2,500 for police officers, as of the date of retirement or termination of service, whichever is applicable, the Board, in the exercise of its discretion, may specify that the actuarial equivalent of such pension be paid in a lump sum. The discount rate used to calculate the present value of lump sum payouts shall be equal to the immediately preceding cost-of-living adjustment paid pursuant to Section 23 of this contract.

(I) The Board shall make such rules as are necessary for the effective and efficient administration of Sections 7, 8, and 9, 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. Notwithstanding any other provision of this section to the contrary, any provision of this section shall be construed and administered in such manner that the fund 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 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 contract.

(J) Effective October 1, 2004, the minimum monthly pension for any retired member or eligible surviving spouse shall be 100 percent of the amount of the poverty level for an individual member or a member with a family of two, as the case may be, as

established annually by the Federal Bureau of Labor and Statistics and published in the Federal Register.

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

(A) To the widow or widower in equal monthly installments an amount equal to one hundred per centum (100%) of the member's final year's earnings, computed from date of death, until death, less any benefits provided under Paragraph (B) of this section, so that total benefits paid do not exceed one hundred per centum (100%) of the member's final year's earnings. For the widow or widower of a firefighter or police officer killed in the line of duty prior to October 1, 1969, the minimum benefit under this section shall be $1,500 per month (Base plus PRAA). For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) For each child until he or she shall have reached the age of eighteen (18) years, or until such child or children shall die or marry before reaching the age of eighteen (18) years, or age twenty-three (23) if a full-time student, in equal monthly installments an amount equal to fifteen per centum (15%) of the final year's earnings, computed from date of death, subject to a limitation of a total of one hundred per centum (100%) of final yearly earnings for widow or widower and children combined. Equal monthly installments paid to the child or children in the aggregate shall not exceed thirty per centum (30%) of the member's final earnings, and the fifteen per centum (15%) per child shall be adjusted in the event of more than two (2) children. Monthly installment amounts paid to the child or children shall reduce the widow or widower monthly installments by the same amount paid to the child or children so that the total combined annual benefits of the widow or widower and the child or children do not exceed one hundred per centum (100%) of the member's final year's earnings. Children's pensions shall terminate at the earliest of death, marriage, reaching age eighteen (18), or reaching age twenty-three (23) if a full-time student. Adopted children shall participate. Pension payments no longer paid to the child or children shall be paid to the widow or widower.

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

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

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

(F) In the absence of an eligible surviving spouse or minor children, to the extent required by the Florida in the event of the death of a member prior to retirement, the member's designated beneficiary shall be entitled to the benefits otherwise payable to the member at normal retirement age for ten (10) years certain.

(G) In the case of a surviving widow or widower and a surviving child as defined in this act, who is in pay status on October 1, 2018, the benefit received shall be increased on the first payment date after October 1, 2018.

SECTION 9. To the widow or widower (until death or remarriage) and child or children (under the age of eighteen (18) years), until death or marriage before reaching the age of eighteen (18) years, of any member who dies from causes not attributed to his active duties in the departments, provided, however, that such member shall have been a member of such department for ten (10) years prior to the date of his death, the Trustees shall authorize and direct payment in equal monthly installments as follows:

(A) To the widow or widower in equal monthly installments sixty-five per centum (65%) of the service retirement pension earned by the member at date of death. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) To the child or children of a member who dies from causes not attributed to active duties in the department, the provisions of Section 8, governing the amounts and conditions of administration of childrens' pensions, shall apply but subject to a limitation on the combined payments to a widow or widower and children equal to fifty per centum (50%) of final salary.

(C)

(1) The widow or widower of a member who dies while receiving a retirement pension shall receive sixty-five per centum (65%) of the pension which the member was receiving; provided however, that no pension shall be allowed to any widow or widower unless she or he was married to the member prior to the date of retirement of the member, except as provided in paragraph (2). For the widow or

widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(2)

(a) Members (i) who have been retired for less than forty (40) years as of the effective date of this act, (ii) who retired or entered DROP prior to October 1, 2002, and (iii) who married or remarried after the date of the member's retirement may elect prospectively to receive a voluntarily reduced retirement benefit payable to the widow or widower. The amount of the widow or widower's benefit will be based on the actuarial equivalence calculated by the Fund's actuary, and such benefit shall not result in any additional cost to the Fund or to the plan sponsor than would have been incurred if the member had not elected such benefit under this paragraph. Said actuarial calculation shall be paid for by the retired member.

(b) The election under subparagraph (a) is available only if (i) the spouse is not more than twenty (20) years younger than the married or remarried member, (ii) the marriage or remarriage occurred at least three (3) years prior to the member's said election, and (iii) the electing member is restricted to exercising this provision for a maximum of two remarriages after retirement.

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

(E) In the absence of an eligible surviving spouse or minor children, to the extent required by the Florida Statutes, in the event of the death of a vested member prior to retirement, the member's designated beneficiary shall be entitled to the benefits otherwise payable to the member at normal retirement age for ten (10) years certain.

(F) In the event a retired firefighter or police officer dies after retirement but before he or she has received retirement benefits for a period of ten (10) years, the same monthly benefit will be paid to the eligible surviving spouse, or if there is no eligible surviving spouse, to the beneficiary as designated by the member for the balance of such ten (10) year period.

SECTION 10. Any firefighter or police officer of the City who makes his legal election as provided herein, and who shall make the contribution required to be made hereunder into the Pension Fund, shall be permitted to participate in the fund and benefits thereof, herein and hereby authorized, but nothing herein contained shall be construed as to require or compel any employee to participate in the said pension system. Each firefighter and police officer who does not elect to join this Pension Fund shall remain or become a member of Division B of the General Employees' Pension Plan, as established by Chapter 81-497, Laws of Florida, as amended.

SECTION 11. Except for each firefighter and police officer who on October 15, 1992 was a member of Division B of the General Employees' Pension Plan for the City of Tampa, all persons entering the employ of the City, as firefighters or police officers subsequent to the time when this Act shall have become a law, shall be required to file their legal election with the City, on or before ninety days from the date of their employment, in order to entitle them to participate in the benefits and funds herein created and authorized by this Act.

SECTION 12. Whenever any employee, within the terms of this Act, shall file his election with the City of Tampa as hereinbefore provided, the City, within thirty (30) days thereafter, is hereby authorized, empowered and directed to execute a contract as provided for herein in triplicate, one copy to be retained by the City, one copy to be retained by the Pension Board, and the other copy to be delivered to the said employee joining in said contract, and shall thereafter be and remain a contract binding upon the said City and the employee, and enforceable in any Court in the State of Florida having jurisdiction of actions upon contracts in like amount, and by such relief, ordinary or extraordinary, at law, or in equity as may be suitable or appropriate in similar cases.

SECTION 13. **MEDICAL BOARD**. The Board of Trustees shall designate a Medical Board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of this Act, shall investigate all essential statements or certificates made by or on behalf of a member in connection with an application for disability or retirement and shall report in writing to the Board of Trustees its conclusions and recommendations upon all matters referred to it. The payment for such services shall be determined by the Board of Trustees.

SECTION 14. On compulsory retirement of a member by act of the Board of Trustees, any such retired member shall have the right to appeal against such retirement by the Board of Trustees by appealing to a court of proper jurisdiction, and said member shall defray his own expense in his appeal of such compulsory retirement.

SECTION 15. Members entitled to a pension shall not forfeit the same upon dismissal from the department, but shall be retired as herein described.

SECTION 16. In the event a member who has been retired on a pension on account of permanent incapacity regains his full health and is shown to be physically able to perform his duties in the Fire or Police Department, the Board shall require the said member to resume his position in the respective department and discontinue the pension; provided, however, that, if such member shall have been retired for disability in line of duty, shall not have reached the age of forty-six (46) years and shall within eighteen (18) months after resuming his position pay into the fund an amount equal to the aggregate contributions (computed upon his annual earnings at the time of his disability retirement) he would have been required to make hereunder during the period of his disability retirement had he not been retired, such

member shall receive creditable service for the period of such disability retirement.

SECTION 17. **COMPUTATION OF PENSION SERVICE AND PURCHASE OF PAST CREDITED SERVICE**.

(A) In computing service allowance, creditable service shall include all service or employment of the member in the Fire or Police Department, either continuous or interrupted, provided, however, that any leave of absence without pay shall not be included. Credited service shall include credit for up to five (5) years of the time spent in the military service of the Armed Forces of the United States if the member is in the active employ of the City of Tampa immediately prior to such service and leaves a permanent, full-time position as a firefighter or police officer with the City of Tampa for the purpose of voluntary or involuntary service in the Armed Forces of the United States. The member must be entitled to re-employment under the provisions of the Uniformed Services Employment and Re-Employment Rights Act (USERRA). In order to be eligible for the benefits of this section, a member must return to employment as a firefighter or a police officer of the City of Tampa within one (1) year from the date of release of such active service. Pension contributions shall not be required for military service as described in this section, unless permitted by the Florida Statutes. The provision of this section shall not apply to temporary service for reserve training. However, the amount of any pension or compensation that may be received from the Federal Government on account of disability from such service shall be deducted from the amount of any pension due under this Act. The deduction of the amount of any pension or compensation received from the Federal Government shall be made only where the period of military service (not exceeding five (5) years) is added to the period of actual service of the member in either the Fire or Police Department in order to make up the required number of years for retirement on a City pension; that the disability for which any pension or compensation is received from the Federal Government shall be only such disability that was incurred in the military service during the same period of military service used by the member to add to his actual service in the Police or Fire Departments in order to make up the number of years required for retirement on a City pension; and that no deduction of the amount of any pension or compensation received from the Federal Government can or shall be made from the amount of any City pension granted solely on account of disability. Any member who, in order to perform such active military service, has left his employment in the Police or Fire Departments of the City of Tampa and (a) who received a certificate of honorable discharge upon completion of such active military service, (b) is still qualified to perform the duties of such position, (c) makes or shall have made application for reemployment within thirty (30) days after he is released from active military service, shall be restored by the Police or Fire Department of the City of Tampa to such position or a position of like seniority, status and pay.

(B) Immediately upon the passage of this Act, the Board of Trustees shall at once establish the service record of all employees who may be entitled to participate in the benefits of this Act and shall keep a record thereof.

(C) For each firefighter and police officer who on October 15, 1992 was not a member of this Pension Fund, but who was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, who elects to join this pension fund, for purposes of determining eligibility for any benefit in which length of service is a factor, the entire period of time served as a firefighter or police officer with the City of Tampa, either continuous or interrupted, shall be included; provided, however, that any leave of absence without pay shall not be included unless required by applicable law, any service as a police recruit shall not be included, and any service in which the firefighter or police officer withdrew his/her contributions shall not be included. Active military service shall be included to the extent required by law.

(D) A member who has separated from service as a firefighter or police officer and who has taken a refund of his pension contributions, who is later readmitted to the Fund, shall have the option of purchasing past creditable service.

(1) The readmitted member shall make the election in writing to purchase past creditable service on a form prescribed by the Board within 90 days of readmission, which election shall be legally binding.

(2) The readmitted member who elects to purchase past creditable service shall repay the withdrawn contributions with interest at the actuarially assumed rate of return of the Fund within 90 days of the later of, readmission or receipt of written notification from the Board of the amount due. Interest shall be calculated from the date of withdrawal to the date of repayment at the actuarially assumed rate of return of the Fund.

(3) A member who fails to pay withdrawn contributions with interest as provided in this subsection within 90 days of the later of, readmission or receipt of written notification from the Board of the amount due shall not receive creditable service for the period of time for which the withdrawn contributions apply.

(E) All active police officer or firefighter members shall be permitted to purchase up to an additional five (5) years of credited service based upon (i) service as a full-time certified firefighter or certified police officer employed by a city, county, state, federal, or other public agency, or (ii) military service in the Armed Forces of the United States. Temporary, auxiliary, reserve, volunteer, or private agency service shall not apply. Service credit purchased under the provisions of this section shall not count for vesting purposes.

(1) Prior service shall not be granted until the member has paid to the Pension Fund the actuarial cost of the service purchased, as determined by the actuary for the Plan. Said actuarial calculation shall be paid for by the member. Members purchasing service credit shall provide the Board of Trustees with proof of prior service with honorable separation. No service credit may be purchased if the member is receiving or will receive any other retirement benefit based on this service, except in the case of a military pension.

(2) The contribution by the member of the actuarially determined cost of the buyback may be made in one lump sum or may be made by payroll deductions in installments for a period of time which shall not exceed the number of years being purchased. A member electing to make installment payments shall be charged interest based on the actuarially assumed rate of return for the Plan. A member making installment payments shall complete all required payments prior to payment of any benefit under this section.

(3) A member who terminates service prior to vesting in the Plan shall be entitled to a refund, without interest, of all money paid to buy back prior military, firefighter, or police officer service.

SECTION 18. No pension provided for herein shall be assignable or subject to garnishment for debt or for other legal process.

SECTION 19. **DURATION OF MEMBER'S PENSION**. Pensions granted to retired members shall be paid to them for life and shall not be revoked nor in any way diminished except as provided in this Act, and the payments of the member to this fund shall cease upon his retirement and acceptance of a pension.

SECTION 20. The Board of Trustees shall direct that there be included in the pension list, and be subject to the benefits of this Act, all pensions now being paid by the Fund to widows and widowers and children and retired members of the Fire and Police Departments who are now drawing a pension from said fund or may be hereafter entitled thereto, but not to exceed the maximum provided by this Act, and are hereby directed to pay said pensions.

SECTION 21. The Board of Trustees shall have the power to examine into the facts upon which any pension shall have heretofore been granted under any prior or existing law, or shall hereafter be granted under this Act, and ascertain if any pension has been granted or obtained erroneously, fraudulently, or illegally for any reason. Said Board is empowered to purge the pension rolls of any person heretofore granted a pension under prior or existing law, or hereafter granted under this Act, if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any pensioner who has heretofore under any prior or existing law, or who shall hereafter under this Act, be erroneously, improperly or illegally classified.

SECTION 22. Whenever any member in the service of either the Fire or Police Department shall sever his connection with such department, either voluntarily or by lawful discharge, all rights under this Act shall thereupon cease automatically unless at the time of such discharge or voluntary retirement such member has qualified under the terms of this Act for a pension as herein provided. Upon severance prior to qualifying for retirement, a member shall receive a refund of contributions without interest provided, that a member may voluntarily leave his contributions in the Fund for a period of 5 years after terminating employment with the Fire or Police Department, pending the possibility of being rehired by the same department without losing credit for the time he has participated actively as a firefighter or police officer. If the member is not re-employed as a firefighter or police officer, with the same department, within 5 years after terminating such employment, his contributions shall be returned without interest. In the event of the death of a member who is not vested, the member's designated beneficiary shall receive a return of the member's contributions without interest. In the event that the member has not designated a beneficiary, the member's estate shall be deemed the designated beneficiary.

SECTION 23.

(1) Commencing September 30, 1970, the size of the Fund, excluding the 13th check account, determined on a market value basis, shall be compared with the amount that would have been in the Fund, excluding the 13th check account, had the fund, excluding the 13th check account, earned 5 percent, inclusive of realized and unrealized capital gains and losses, compounded annually from October 1, 1969. If on any September 30, the actual fund, excluding the 13th check account, exceeds the 5 percent accumulation, the excess will be known as the Post Retirement Adjustment Account, provided that for this purpose the 5 percent accumulation will not be reduced by any post-retirement benefit adjustment payments.

(2) Commencing January 1, 1980, and on each January 1 thereafter, installments due in the following twelve months to members and beneficiaries covered under this contract shall be increased or decreased by (a) below, but shall not be increased by more than (b) below:

(a) The increase or decrease since the preceding January 1, in the ratio of the current average cost-of-living index to the average cost-of-living index determined as the later of October 1, 1978, and the October 1 immediately preceding the date such installments commenced, rounded off to the nearest whole per centum.

(b) The increase which can be applied and continued for remaining installments, by using the excess, if any, on the preceding September 30 of the Post Retirement Adjustment Account over the value of previous cumulative adjustments if continued for remaining installments, all as determined by the Actuary.

(c) Provided that the effect of such cumulative adjustments shall not be such as to reduce installment payments below the rate at which they would have been paid if no such adjustments had ever been made.

(d) The "average cost-of-living index" shall be ascertained each year; determined as the average of the immediately preceding 24 monthly consumer price index figures, relative to the United States as a whole, known as The Consumer Price Index for All Urban Consumers (CPI-U), (1982-84 = 100 Basis), most recently issued as of such date by the Bureau of Labor Statistics. Should the base point or basis of the monthly Consumer Price Index be revised by the Bureau of Labor Statistics, this term shall mean the published average as adjusted by the Board of Trustees with advice from the Actuary so as to maintain consistency in index figures for purposes of this Plan.

(3) If a member elects to commence receipt of subparagraph 7(A) benefits after 20 years of service immediately upon separation from service as provided in subparagraph 7(D) or to enter into the Deferred Retirement Option Program (DROP) and prior to reaching the age of 46 years, adjustments provided for in this section shall commence on January 1 immediately following the October 1 on or before which the member separates from service as a firefighter or police officer in the fire department or police department, respectively, or enters the Deferred Retirement Option Program (DROP).

(4) Only benefits paid by this Pension Fund shall be subject to cost-of-living adjustments as provided herein.

SECTION 24.

(A) In the event that the provisions of the federal Internal Revenue Code operate to limit the benefit amount that the member or the member's survivors would otherwise be eligible to receive pursuant to the City of Tampa Firefighters and Police Officers Pension Contract, then the member or the member's survivors shall not receive from the City Pension Fund for Firefighters and Police Officers in the City of Tampa retirement benefits in an amount in excess of the limits provided by the federal Internal Revenue Code or in an amount that would cause the City Pension Fund for Firefighters and Police Officers in the City of Tampa to lose its federal income tax exempt status.

(B) In order to maintain the tax exempt status of the City Pension Fund for Firefighters and Police Officers in the City of Tampa, said pension fund shall not be required to pay benefits in excess of the appropriate limits established by Section 415 of the Internal Revenue Code (26 USC Section 415), nor shall said pension fund be required to pay any benefits which would jeopardize its tax exempt status.

(C) Should the benefits otherwise payable pursuant to the City of Tampa Firefighters and Police Officers Pension Contract by the City Pension Fund for Firefighters and Police Officers in the City of Tampa be limited pursuant to Section 415 of the

Internal Revenue Code, then the City of Tampa shall provide for payment of those benefits in excess of the limits in Section 415 of the Internal Revenue Code.

(D) Notwithstanding any other provision of this pension contract to the contrary, any provision of this pension contract shall be construed and administered in such manner that this Pension Fund 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 necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this pension contract.

SECTION 25.

(A) To the extent that any provision of this contract is in conflict with sections 112.60 - .67, Florida Statutes, or other provisions of the Florida Statutes made applicable to the Fund, excluding chapters 175 and 185, Florida Statutes, those provisions of the Florida Statutes shall prevail.

(B) To the extent that any provision of this contract would result in the loss of the tax-exempt status of the Fund, such contractual provision shall be null and void.

(C) To the extent that any provision of this contract is not in compliance with the minimum benefits provisions of chapters 175 and 185, Florida Statutes, that apply to the Fund, the non-compliance with which would result in a forfeiture of the right of the fund to participate in the distribution of the premium tax funds established in chapters 175 and 185, Florida Statutes, the City is authorized to amend this contract by local ordinance to cure such non-compliance, only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance, such ordinance is consistent with the terms of a collective bargaining agreement entered into among the City and the certified bargaining agents for firefighters and police officers, the procedures for the adoption of such ordinance are consistent with section 112.63(3), Florida Statutes, and such ordinance is adopted prior to March 31, 2003. Any local ordinance adopted by the City pursuant to this subparagraph shall be incorporated by reference into the pension contract of each firefighter and police officer who is an active or contributing member of the Fund on the date the amendments to such contract provided in such ordinance become effective.

(D) To the extent that any provision of this contract is not in compliance with the minimum standards provisions of chapters 175 and 185, Florida Statutes, that apply to the Fund, the non-compliance with which would result in a forfeiture of the right of the Fund to participate in the distribution of the premium tax funds established in chapters 175 and 185, Florida Statutes, the City is authorized to amend this contract by local ordinance to cure such non-compliance, provided such ordinance is consistent with the terms of a collective bargaining agreement entered into among the City and the certified bargaining agents for firefighters and police officers, and such ordinance is adopted prior to March 31, 2003. Any local ordinance adopted by the City pursuant to this subparagraph shall be incorporated by reference into the pension contract of each firefighter and police officer who is an active or contributing member of the Fund on the date the amendments to such contract provided in such ordinance become effective.

SECTION 26. **DEFERRED RETIREMENT OPTION PROGRAM.** Notwithstanding any other provisions of this contract, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is an option under which an eligible member may elect to have the member's pension benefits calculated as of a certain date prior to retirement, and accumulate benefits plus the investment return pursuant to this section during the DROP calculation period. Participation in the DROP does not guarantee employment for the DROP calculation period, as defined in this section.

(A) Eligibility- In order to be eligible for the DROP option, the member must meet the following eligibility criteria:

(1) The member must have attained at least 20 years of service but no more than 30 years of service at the time the member files an election under this section. The service must be as a firefighter or police officer in the fire department or the police department, respectively, either in this Pension Fund or Division B of the General Employees Pension Plan, or a combination thereof. A member is eligible for accumulations pursuant to the DROP for the lesser of 5 years, or the difference between 30 years of service and the member's service as of the effective date of the member's DROP election. However, if a member has attained at least 25 years of service on the date this act becomes a law and elects to participate in the DROP within 90 days after receipt of written notice from the Board of Trustees, the member is eligible for a 5-year DROP calculation period following the date this act becomes a law.

(2) The member must meet all eligibility requirements for pension benefits, other than separation from service as a firefighter or police officer in the fire department or police department, respectively.

(3) Upon electing to participate in the DROP, the member shall submit on forms required by the City and the Board of Trustees:

(a) An irrevocable written election to participate in the DROP, specifying a DROP benefit calculation date. This DROP benefit calculation date is used to determine the DROP calculation period, which commences on the DROP benefit calculation date and ends on the earlier of (i) the last day of DROP eligibility as determined under paragraph (1) or (ii) the member's separation from service or death;

(b) An irrevocable notice of employment termination to take effect upon the expiration of the DROP calculation period; provided that a DROP participant shall not be precluded from voluntarily terminating employment with the City as a firefighter or police officer before the expiration of the DROP calculation period, nor shall the City be precluded from terminating such 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;

(c) A properly completed application for longevity retirement benefits to be calculated pursuant to subparagraph 7(A) or subparagraph 7(D) as of the DROP benefit calculation date; and

(d) Any other information required by the Board of Trustees.

(4) A member may only make one DROP election during the member's lifetime.

(B) Status - For pension purposes only:

(1) During the DROP calculation period, there shall be no pension contribution deductions made from the earnings, wages, salary, or compensation earned by the DROP participant.

(2) Upon entry into the DROP, a DROP participant shall no longer be entitled to disability benefits pursuant to

subparagraph 7(B) or subparagraph 7(C).

(3) Death benefits under the DROP.--Upon the death of a DROP participant, the named beneficiary or beneficiaries shall be entitled to receive the benefits accumulated during the DROP calculation period as of the date of death. After the death of such DROP participant, pension benefits shall be paid as required by Section 9, provided however that a surviving spouse who was not married to the member during some period of the member's employment as a firefighter or police officer prior to the date of the member's entry into the DROP shall not be entitled to Section 9 benefits. Eligibility to participate in the DROP terminates upon the death of such DROP participant.

(4) A DROP participant shall not be eligible to be elected as a member of the Board of Trustees.

(5) During DROP participation, a DROP participant shall be entitled to the 13th check benefit pursuant to Section 27.

(C) Benefits under the DROP -

(1) Effective with the DROP benefit calculation date, a DROP participant's monthly pension installments calculated pursuant to Section 7, including creditable service, such participant's average earnings, and the effective date of retirement shall be fixed.

(2) The DROP accumulation shall be calculated as follows:

(a) The amount of the 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.

(b) The amount of any cost of living adjustments pursuant to Section 23 during the DROP benefit calculation period.

(c) Interest accumulation as set forth in this section.

(d) The amount of the 13th check pursuant to Section 27.

(3) At the conclusion of the member's DROP benefit calculation period, the Board of Trustees shall distribute the member's benefits, subject to the following provisions:

(a) The Board of Trustees shall receive verification by the City that such DROP participant's employment as a firefighter or police officer with the fire department or police department, respectively, has terminated.

(b) A terminated DROP participant or, if deceased, such participant's named beneficiary or beneficiaries, shall elect on forms provided by the Board of Trustees to receive the DROP benefits in accordance with one of the options provided in subparagraph 26(E)(1). Once a DROP participant commences distribution under a payment method (or receives a lump sum), no further interest shall be payable to the DROP participant. For a DROP participant or beneficiary who fails to elect a method of payment within 60 days of termination of DROP participation, the Board of Trustees will pay a lump sum as provided hereafter.

(D) **Interest and Administrative Costs -** Interest shall accumulate annually, whether positive or negative, during the DROP calculation period, less the cost of administering the DROP, all of which shall be determined by the Board of Trustees. A DROP participant shall have the opportunity to elect, as provided in this subsection, an investment option to be applied to such DROP participant's account for the Plan Year when entering the DROP and for each subsequent Plan Year. In such election, the DROP participant shall choose to have interest accumulate annually, whether positive or negative, at either (i) a rate reflecting the Fund's net investment performance, as determined by the Board of Trustees, or (ii) a rate reflecting a low-risk variable rate selected annually by the Board of Trustees in its sole discretion. Each election must be made at such time, on such forms, and in such manner as the Board of Trustees may determine in its sole discretion. If the DROP participant fails to make a valid election upon entering the DROP, the Fund interest rate shall be applied as provided herein. If the DROP participant fails to make a valid election in a subsequent Plan Year, the election for the then-current Plan Year shall be applied.

(E) **Payment**

(1) Upon termination of employment with the City as a firefighter or police officer in the fire department or police department, respectively, the accumulated DROP benefits at the option of the terminated DROP participant, or if deceased, such participant's designated beneficiary or beneficiaries, shall 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 by rules and regulations adopted by the Board of Trustees, provided that such distribution may be adjusted by the Board of Trustees to maintain Internal Revenue Code qualification of the Fund.

(2) If a DROP participant dies during the DROP calculation period, or on or before the DROP participant's full DROP accumulation is distributed, any remaining DROP accumulation shall be distributed to the DROP participant's designated beneficiary or beneficiaries, or, if there is no surviving designated beneficiary, to the participant's spouse, or if there is no surviving designated beneficiary and no surviving spouse, to the participant's estate. Any such payment shall be made in a lump sum payment, unless the participant had already commenced benefit payment of their DROP accumulation in an optional plan. In such an event, benefits shall continue to be paid pursuant to the optional benefit form selected.

(3) The form of distribution elected by a DROP participant or surviving beneficiary must comply with the applicable requirements of the Internal Revenue Code.

(4) A DROP participant who is involuntarily discharged who seeks review of such discharge shall 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 provided in subparagraph 26(A)(1), whichever is first.

(5) The accumulated benefits of any DROP participant, including any interest thereon, shall not be subject to assignment, garnishment, execution, attachment, or to any legal process whatsoever, except income deduction orders as provided in section 61.1301, Florida Statutes, and federal income tax levies.

(6) Upon termination from employment with the City as a firefighter or police officer in the fire department or police department, respectively, the monthly pension installments pursuant to Section 7 and the cost of living adjustments pursuant to Section 23, shall be paid to the member, and upon death of the member, monthly pension installments shall be paid pursuant to Section 9 with cost of living adjustments pursuant to Section 23.

(F) **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 rule 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.

(G) **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 DROP. The Board of Trustees shall 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. 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 necessary to accomplish the purpose of this section as is necessary to retain tax qualification, which rule shall have the force of law and shall be considered part of this pension contract.

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

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

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

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

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

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

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

(B) **13th Check Account**

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

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

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

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

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

(c) If a retired member is eligible on October 1 but dies before payment of the 13th check by the following June 30,

the retired member's spouse shall receive the full amount of the payment, and if there is no surviving spouse, the retired member's designated beneficiary or beneficiaries, or if none, the retired member's estate shall receive the payment.

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

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

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

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

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

SECTION 28. ELECTION TO PURCHASE PAST CREDITABLE SERVICE BY CERTAIN FIREFIGHTERS AND POLICE OFFICERS.

(A) Each firefighter and police officer who, on October 15, 1992, was a member in Division B of the General Employees' Pension Plan for the City of Tampa, who became a member of this Fund for service occurring on and after October 16, 1992, and who is a member of this Fund on or after June 1, 2002, may elect to purchase creditable service under this Pension Contract for service as a firefighter or police officer with the City of Tampa prior to October 16, 1992, if said employee complies with the following:

(1) Notify the City of Tampa and the Board of Trustees of this Fund, in writing, at any time between July 1, 2002, and December 31, 2002, of his or her desire to purchase creditable service for all or any portion of such past service and the time period of such service to be purchased;

(2) Upon electing to purchase creditable service for such past service, submit on a form required by the City an irrevocable waiver of any pension benefits under the General Employees' Pension Plan for the City of Tampa, which waiver shall apply only to the time period of such service to be purchased; and

(3) By September 30, 2003, pay into the Pension Fund a sum of money equal to the aggregate employee contributions, plus compound interest thereon at a rate as determined by the Board, which the employee would have paid into the Fund pursuant to Section 2 (D) of this Contract, had the employee participated in the Fund during the period of such prior service that said employee has elected to purchase.

(B) For each firefighter and police officer electing to purchase creditable service for past service as provided in this section, the City shall pay into the Pension Fund, by September 30, 2003, a sum of money equal to the City contributions, plus compound interest thereon at the rate determined by the Board pursuant to Section 28 (A) (3), which the City would have paid into the Fund for such firefighters and police officers pursuant to Section 2(B) and (C) of this Contract, had such firefighters and police officers participated in the Fund during the period of such prior service that such firefighters and police officers have elected to purchase.

(C) Benefits for creditable service purchased by firefighters and police officers pursuant to this section shall be calculated in the same manner as are such firefighters' and police officers' benefits for creditable service commencing on October 16, 1992, provided that there shall be no reduction in benefits for such creditable service purchased as otherwise required pursuant to Section 7 (A), (B), or (C), Section 8 (A), or Section 9 (A) or (C) of this Contract.

(D) 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. 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 29. DEFINED CONTRIBUTION PLAN COMPONENT. Pursuant to the requirements of sections 175.351(6) and 185.35(6), Florida Statutes, a defined contribution plan component is established for this special act. The defined contribution component is not currently funded. If such plan component is funded, the Board of Trustees may adopt rules regarding the operation of the defined contribution plan component of this special act.

WHEREAS, it is beneficial to the said City to have its employees protected by the terms of said fund and benefits and the said employee is desirous of participating in said fund and benefits, it is thereupon,

UNDERSTOOD AND AGREED by and between the parties that the party of the second part does hereby allot, out of his salary, wages or compensation, paid to him by the said City, the required percentage of his earnings and does hereby authorize and direct the

disbursing officer or officers of said City to retain out of said wages, salary or compensation said percentage in compliance with the terms of the aforesaid Act of the Legislature, and to continue to make said allotment and authorize said deduction throughout the entire time of his employment or reemployment, or until such time as he shall be entitled to receive the pension allowance or benefit provided by the Fund created in the aforesaid Act.

IT IS FURTHER UNDERSTOOD AND AGREED by and between the parties that the said Board will accept said allotment or deduction from the salary, wages or compensation of said employee aforesaid, and when, under the terms of the aforesaid Act, said employee or other beneficiary of said employee shall be entitled, under the terms of the aforesaid provisions to receive the benefits from said Fund therein created, will pay said sum or sums from said Fund and all other benefits so authorized to said employee or his other beneficiaries, in accordance with said terms without diminution or deduction.

IT IS FURTHER UNDERSTOOD AND AGREED that this contract shall remain in force without change, modification or amendment, until all the purposes now intended to be fulfilled shall have been fully performed, except that payment or other benefits to the party of the second part or such party's beneficiaries may be increased but not diminished except as provided in Section 23.

IT IS FURTHER UNDERSTOOD AND AGREED that employees shall not lose any rights under the terms of this contract by reason of the refusal of the City at any time during the terms hereof to make allotment or deduction from such employees' earnings.

IT IS FURTHER UNDERSTOOD AND AGREED that it is the intention of the parties hereto to create vested rights in the respective parties not to be hereinafter impaired for any cause whatsoever.

IT IS FURTHER UNDERSTOOD AND AGREED that the terms of the provisions hereinbefore set forth are declared to be a part of this contract and this contract is to be construed with reference thereto.

IT IS FURTHER UNDERSTOOD AND AGREED that this contract supersedes any and all contracts heretofore entered into by the parties hereto upon or relating to the subject matter hereof and that any and all of such contracts are supplemental by replacement hereby as of the day and year first above written.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed, with the seal of said City, by its duly authorized officers, and the said party of the second part has hereunto set his hand and seal the day and year first above written.

CITY OF TAMPA

Attested by:

_____
City Clerk

BY: _____
Mayor

* * * * *

_____
Employee Signature

_____
Employee Name --Printed--

_____
Date Signed by Employee

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

CITY OF TAMPA
FIREFIGHTERS AND POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN CHAPTER 2017-197, LAWS OF FLORIDA)

Name Printed:_____ Fire ___ or Police ___ ID #:_____

This agreement made and entered into this _____ day of _____, 2017, between the CITY OF TAMPA,
[print today's date, the date you are signing this contract]
a municipal corporation of the State of Florida hereinafter referred to as the City, party of the first part, and

_____, hereinafter described as member, party of the second part, supplementing
[print your name here]
and amending the Pension Contract(s) previously entered into between the parties.

W I T N E S S E T H:

THAT WHEREAS, the City of Tampa is authorized and empowered to enter into a supplemental pension contract with each and every firefighter or police officer who was an active member of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on or after June 6, 2017, or who hereafter enters into a pension contract with the City, creating Section 29 of the City Pension Fund for Firefighters and Police Officers in the City of Tampa Pension Contract to read:

SECTION 29. DEFINED CONTRIBUTION PLAN COMPONENT.
Pursuant to the requirements of sections 175.351(6) and 185.35 (6), Florida Statutes, a defined contribution plan component is established for this special act. The defined contribution plan component is not currently funded. If such plan component is funded, the Board of Trustees may adopt rules regarding the operation of the defined contribution component of this special act.

IT IS UNDERSTOOD AND AGREED that the terms and provisions hereinbefore set forth are declared to be part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of the City by its duly authorized officers and the party of the second part has hereunto set his/her hand and seal the day and year first above written.

Attested by:

_____
City Clerk

CITY OF TAMPA

BY: _____
Mayor

* * * * *

_____
Employee Signature

_____
Employee Name --Printed--

_____
Date Signed by Employee

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

CITY OF TAMPA FIREFIGHTERS AND POLICE OFFICERS PENSION CONTRACT

THIS AGREEMENT, made and entered into this _____ day of _____, _____ [print today's date] by and between the City of Tampa, a municipal corporation under the laws of the State of Florida (hereinafter referred to as "City" or party of the first part), and _____ [print your name here] (hereinafter referred to as "Employee" or party of the second part), for the purpose of providing retirement and other ancillary benefits to Employee in recognition of service with the City as a firefighter or police officer.

Name Printed:_____ Fire ___ or Police ___ F&P #:_____

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of various Special Acts of the State of Florida and Ordinances of the City of Tampa, the City of Tampa is authorized and empowered to enter into a pension contract with each and every firefighter and police officer who is employed by the City of Tampa, who is authorized to join the City Pension Fund for Firefighters and Police Officers in the City of Tampa, and elects to do so, as follows:

SECTION 1. There is hereby created a special fund to be known as the City Pension Fund for Firefighters and Police Officers in the City of Tampa (hereinafter referred to as the Fund); said Fund to be used exclusively for the purpose provided for in this Act, which Fund shall be collected, administered and disbursed according to the provisions of this Act.

SECTION 2. The said Pension Fund shall consist of monies and properties derived from the following sources, which shall be set apart and placed to the credit of such Fund:

(A) The monies and assets now deposited to the credit of and held by the City Pension Fund for Firemen and Policemen of the City of Tampa.

(B) Commencing October 1, 1969, the City shall contribute eleven per centum (11%) of all earnings of employees covered under this contract, which contribution shall be deposited in the Fund at least quarterly. Commencing October 1, 1970, the City shall contribute at the rate of thirteen per centum (13%), and shall continue to increase the rate of contributions by two per centum (2%) on each October 1 thereafter, until such time as a continuation of the then current rate of contribution (or lesser rate of contribution), together with contributions provided for in Section 2(C), Section 2(D), and contributions expected from other sources, shall, pursuant to the most recent actuarial report, be sufficient if continued at such level, to fund:

(1) The normal annual cost of the benefits other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than the 13th check benefits pursuant to Section 27, provided for in this contract; and

(2) Any remaining unfunded past service cost of such benefits over a period of thirty years from the date of the last actuarial report;

(3) Where such costs are determined on a basis consistent with the requirements of actuarial soundness, and the requirements of Chapters 175 and 185 of the Florida Statutes, as they may be amended from time to time, provided that the investment yield assumed in determining such costs shall not exceed 5%. After such time the City shall contribute at such rate of earnings which will be sufficient, if continued, to fund the normal cost each year and the remaining unfunded past service cost over a period of thirty years from the date of the most recent actuarial report received from time to time;

(4) Provided, however, that in no case shall the contributions by the City in any year, and exclusive of income from other sources, be less than 133, or 134 percent if paid quarterly, of the total sum contributed by employees as provided in (D) below, excluding contributions for the 13th check benefit; it being expressly understood that when the requirements for continued actuarial soundness of the plan are determined to require less contributions than would result hereby, the contributions from the City and employees will be proportionately reduced to rates which will reasonably generate such reduced amount.

(C) The City shall make additional contributions each year as follows:

(1) In the event that the average earnings of all of the members covered under this contract for any twelve month period ending September 30 (determined for this purpose as the total earnings for such period divided by the average of the number of members covered at the beginning and end of the period), shall exceed the similar average earnings for the preceding twelve month period by A%, then commencing on October 1 an additional annual contribution shall be made by the City, equal to A% multiplied by the total earnings for the twelve months preceding such October 1, and multiplied by the pension cost factor associated with such increases as set forth in the most recent actuarial report received from time to time, subject to (2) below;

(2) Such additional contributions, together with contributions similarly determined in previous years, shall continue to be paid each year on a cumulative basis until the contributions from all sources (other than investment income) shall meet the standards set forth in Section 2(B)(1), (2), (3), and (4) after which time such contributions shall be reduced as provided for in the most recent actuarial report received from time to time.

(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, subject to a minimum annual contribution of not less than one-half of one percent (0.5%) of the total earnings of each such employee, 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 deposited in the Fund immediately after each pay period:

Earnings in Twelve-Month Period Commencing October 1	Employee Contribution Rate
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.

(E) All monies and assets which shall be received by the Board for deposit to the credit of or for the account of the Fund from all other sources including the State of Florida.

(F) No monies raised by taxation or otherwise provided for said Pension Fund shall be used other than for the purposes of this Act.

(G) To the extent that the City of Tampa provides for the payment of benefits otherwise payable by the City Pension Fund for Firefighters and Police Officers in the City of Tampa but for the limits in Section 415 of the Internal Revenue Code, then there shall be a reduction in the amount of the City's contributions otherwise payable to the City Pension Fund for Firefighters and Police Officers in the City of Tampa by an amount equivalent to the amount of benefits provided for by the City of Tampa; provided, however, such amounts shall be included in the calculation of the City's contributions to the City Pension Fund for Firefighters and Police Officers in the City of Tampa pursuant to Section 2(B) of this pension contract.

(H) Notwithstanding the contribution rate schedule set forth herein, the contribution rate of each firefighter and police officer who on October 15, 1992 was a member in Division B of the General Employees' Pension Plan for the City of Tampa, who becomes a member of this Fund, shall be reduced by such firefighter's or police officer's social security contribution, and the City shall pay to the Fund the amount by which such employee's contribution is reduced by the end of the calendar quarter. For purposes of this section, the term "social security contribution" shall mean that amount required to be paid by such firefighter or police officer pursuant to Section 3111(a) of the Code (regarding contributions toward the Old-Age, Survivors, and Disability Insurance). Notwithstanding any adjustment that may be required herein, the total annual contribution required of said firefighter or police officer shall not be less than one-half of one percent (0.5%) of the total earnings of each such firefighter or police officer, or such other amount as is required by Chapter 175 or Chapter 185, Florida Statutes, in order for this Pension Fund to participate in the distribution of the tax funds established by Chapter 175 or Chapter 185, Florida Statutes.

(I) Notwithstanding any other provision of this pension contract, as amended, to the contrary, to the extent that the contribution rate of the firefighter or police officer who was a member in Division B of the General Employees' Pension Plan for the City of Tampa, is less than such firefighters' or police officer's social security contribution made for the same period, such firefighter or police officer shall be entitled to a special payment from the City of Tampa in an amount equal to such excess plus the amount of the tax allowance (as defined below). Payments made pursuant to this subsection (including the tax allowance) shall constitute special payments and are not included as earnings. For purposes of this subsection, such firefighter's or police officer's "tax allowance" shall approximate:

(1) the amount necessary to compensate the firefighter or police officer to the extent of any increase in the firefighter's or police officer's federal, state and local income taxes which occur as a result of the inclusion of the special payment made pursuant hereto in such firefighter's or police officer's taxable income; plus

(2) an amount necessary to compensate the firefighter or police officer for the net increase in the taxes described in subparagraph (1) above as a result of the inclusion in such firefighter's or police officer's taxable income of any payment made pursuant hereto.

The amounts described in (1) and (2) above shall be calculated by multiplying the special payment by the gross up percentage of such taxable year. The "gross up percentage" for any year shall be determined by utilizing the following formula, with the "tax rate" being the sum of (i) the highest percentage income tax rate determined pursuant to Section 1(a) of the Code (for married individuals filing joint returns) applicable for the taxable year in which such payments will be included in taxable income, based on the annualized average rate of monthly salary for those firefighters and police officers receiving the special payments, plus, to the extent applicable, (ii) the rate specified under Section 3111(a) of the Code:

"[(1 / (1 - tax rate)] - 1"

The tax allowance shall be paid to the firefighter or police officer by the City of Tampa. Payment of the tax allowance shall be made on or before the last day of the calendar year to which such special payment relates. For purposes of this subsection the "annualized average rate of monthly salary" shall be the average of the scheduled or stated amount of monthly compensation (without regard to compensation actually paid) of that group of firefighters or police officers who are entitled to special payments herein for the last month of the Plan Year annualized for such Plan Year.

(J) For each firefighter and police officer, who on October 15, 1992 was not a member of this Fund, but who becomes a member of this Pension Fund, for service occurring on and after October 16, 1992 until said firefighter or police officer is formally accepted into membership by the Board of Trustees, the City shall pay within thirty (30) days of acceptance the employee contributions that otherwise would have been paid pursuant to Section 2 of this pension contract, plus interest at the rate of ten percent (10%) per annum. The City shall also pay by the end of the calendar quarter in which said firefighters and police officers were formally accepted the City of Tampa contributions that otherwise would have been paid pursuant to Section 2 of pension contract, plus interest at the rate of ten percent (10%) per annum. Notwithstanding the provisions of Section 22, there shall be no refund of employee contributions which are paid by the City of Tampa on behalf of such firefighters and police officers.

(K) Notwithstanding any other provisions of this section, the City and the employees shall make additional contributions to the 13th Check Benefit Program to the extent set forth in Section 27.

SECTION 3. When used herein the following terms shall have the following meanings:

(A) The term "employee" shall mean any member of the Fire or Police Department employed as a firefighter or police officer, and whose employment shall be regular and continuous and not of a temporary character.

(B) The terms "firefighter" and "police officer" shall be synonymous with the term "employee" as defined above.

(C) The term "member" shall mean an employee contributing or required to contribute to the Fund and entitled to participate in the benefits thereof upon the terms and conditions hereof.

(D) The terms "widow" and "widower" shall mean the lawful wedded spouse of a member of the Fire or Police Department at the time of such member's death.

(E) Commencing for earnings paid the first pay date after October 1, 2004, the term "earnings" shall mean total cash remuneration paid by the City to a firefighter or police officer for services rendered, including any payments required to be included within the definition of compensation pursuant to Chapters 175 and 185, Florida Statutes, but not including any payments for extra duty. Commencing for earnings paid the first pay date after October 1, 2004, earnings shall also include payments for overtime paid by the City to a firefighter or police officer up to a maximum of 300 hours of overtime per calendar year.

(F) The term "actuary" shall mean a Fellow or Associate of the Society of Actuaries, or a firm employing such person, provided that such firm must be nationally recognized in the actuarial field and acceptable to the State Treasurers Office and to the Board of Pension Trustees.

(G) The term "actuarial report" shall mean a report prepared at least once every three years and in any year in which the average earnings of members increases more than two per centum (2%) of the average earnings the year before, and in any year in which the same shall be required by Chapters 175 and 185, Florida Statutes; such study to be prepared by an actuary and accepted by the Board of Trustees; determining the costs of all benefits provided for under this Act as a result of employment of members and former members, including a review of experience and a determination of a pension earnings increase factor or factors, and including determination of the effect of adjustments for expected cost-of-living index changes, based upon the data current as of the effective date of the report; and, based upon cost methods, factors, and assumptions consistent with actuarial soundness, and acceptable to the State of Florida as being consistent with the requirements of Chapters 175 and 185 of the Florida Statutes as they may be from time to time amended.

(H) Wherever the term "he" or "him" appears herein the same shall also include "she" or "her" when applicable.

(I) The term “primary beneficiary” shall mean the beneficiary designated by the member to receive benefits payable, if any, in the event of the member’s death.

(J) The term “contingent beneficiary” shall mean the beneficiary or beneficiaries designated to receive benefits payable, if any, in the event of the member’s death and the primary beneficiary has predeceased the contingent beneficiary(ies).

(K) The term “joint annuitant” shall mean the person designated by the employee to participate with the employee in one of the optional forms of benefits. The term “joint annuitant” does not apply to the definition of a spousal beneficiary in the option for normal retirement.

(L) The term "normal retirement" shall mean retirement after earning ten (10) years of creditable service and the attainment of age forty-six (46) or retirement after earning twenty (20) years of service, regardless of age, in both cases the member may begin to immediately draw benefits.

SECTION 4. Except as otherwise provided herein, before any person shall become a member of the Pension Fund he or she shall:

(1) be not more than any applicable entry level age limit established by federal law;

(2) be required to furnish a list of all of their medical providers and authorizations to obtain such medical records;

(3) pass a complete medical examination including, but not limited to, echo-cardiogram, functional examination of the back and neck, and any other specific diagnostic tests as determined by the Medical Board based upon the individual's risk factors, medical history and physical examination; and

(4) meet all the requirements of the Civil Service Board of the City except the probationary period.

Such medical records and medical examination also shall be utilized by the Board of Trustees for purposes of establishing baseline medical conditions for reviewing any future claims for disability benefits. Each active firefighter and police officer, who on October 15, 1992 was not a member of this Fund because of his or her age, shall become a member of this Fund, provided said person within thirty (30) days of receipt of written notice from the City of Tampa does not file a written election with the City of Tampa and the Board of Trustees of this Fund electing not to join this Fund, but instead to remain a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended. Each active firefighter and police officer, who on October 15, 1992 was not a member of this Fund and becomes a member of this Pension Fund shall furnish to the Board of Trustees a list of all of their medical providers and authorizations to obtain such medical records within a reasonable period of time as established by the Board of Trustees. Each firefighter and police officer shall also undergo a medical examination by the medical board at the expense of the Board of Trustees for purposes of establishing baseline medical conditions for reviewing any future claims for disability benefits. Any person who is initially employed on or after October 16, 1992, without prior creditable service in this Pension Fund by the City of Tampa for a position with the fire department or police department which position is in the unclassified service, as defined by the Civil Service Law of the City of Tampa and the City of Tampa Civil Service Rules and Regulations, shall not be eligible to join this Pension Fund.

SECTION 5. The general administration and responsibility for the proper operation of the pension system and for making effective the provisions of this Act are hereby vested in a board consisting of nine persons, as follows:

(1) Three members of the City Administration other than firefighters or police officers to be appointed as hereinafter provided;

(2) Three members of the Fire Department to be elected as hereinafter provided; and

(3) Three members of the Police Department to be elected as hereinafter provided.

(A) The term of office of each trustee shall be three years, except that the initial terms of the trustees of each class shall respectively be for one, two, and three years. The initial terms shall commence on the 60th day after the ordinance approving and authorizing this contract shall become a law.

(B) The appointive trustees shall be appointed by the Mayor.

(C) The elective trustees shall be elected in the following manner, to wit: by per capita vote of all members of each of said respective departments who come within the purview of this Act, both active and retired, at elections to be held at places designated by the Board, at which elections all qualified members entitled to vote shall be notified in person or by mail ten days in advance of said election . The candidate receiving the majority of votes for each office shall be declared elected and shall take office immediately upon commencement of the term of office for which elected or as soon thereafter as he shall qualify therefor. An election shall be held each year not more than sixty (60) and not less than ten (10) days prior to the commencement of the terms for which trustees are to be elected in that year. The Board of Trustees shall meet, organize, and elect one trustee as chairman, one trustee as vice chairman, and one trustee as secretary within ten days after any trustees are elected and duly qualified.

(D) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(E) The trustees shall serve without compensation, but they may be reimbursed from the expense fund for all necessary expenses which they may actually expend through services on the board.

(F) Each trustee shall, within ten days after his appointment or election, take an oath of office before the City Clerk of said City, that so far as it devolves upon him he will diligently and honestly administer the affairs of the said Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the member making it and certified by the said clerk and filed in his office.

(G) Each trustee shall be entitled to one vote on the Board. Five votes shall be necessary for a decision by the trustees at any meeting of the Board. The chairman shall have the right to one vote only.

(H) Subject to the limitations of this Act the Board of Trustees shall from time to time establish rules and regulations for the administration of funds created by this Act and for transaction of its business, including provisions for compulsory attendance of its members, which shall have the force of law.

(I) The Board of Trustees shall by majority vote of its members appoint a secretary, who may, but need not be, one of its members. It shall engage such actuarial and other services as shall be required to transact the business of the pension system. The compensation of all persons engaged by the Board of Trustees and all other expenses of the Board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the Board of Trustees shall agree, but in no case shall the expenditures for such services or operations exceed three per cent of the maximum of the fund each fiscal year. All funds shall be disbursed by the Board of Trustees. The secretary shall be bonded in such amount, not less than five thousand dollars, as the Board shall determine. The premium for said bond to be paid out of this fund.

(J) Any trustee who neglects the duties of his office shall be removed by the Board of Trustees.

SECTION 6. Money shall be withdrawn from the Pension Fund created by this Act only upon warrants executed by a majority of the Board of Trustees. Monies needed for the meeting of the current obligations of said fund may be deposited in a depository recognized by law for the deposit of funds of the State of Florida and upon the posting of similar security for that required for state deposits. The Board shall have exclusive charge of the investment of any surplus in said fund not needed for the current obligations thereof; and said funds shall be managed by said Board and shall be invested by said Board in accordance with the following:

(1) That the Board shall retain the services of one or more nationally recognized professional investment counselors.

(2) That not less than once every six (6) months a written opinion shall be obtained from the investment counselor or counselors as to the overall condition and composition of the investment portfolio.

(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 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 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 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 twenty-five per centum (25%) of said fund, based on the total market 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. The investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law.

SECTION 7. **BENEFITS, PENSIONS TO MEMBERS**

The Board shall upon its application retire:

(A) Any member of the Fund having an aggregate of 10 years of service as defined in Section 17 in said departments, and having reached the age of 46 years, who then shall receive in monthly installments a pension equal to 31.5 percent of the member's average earnings for the three (3) highest years within the last 10 years of service for a period of ten (10) years certain and life. For each additional year of such service after 10 years, a member shall receive 3.15 percent of average earnings, not to exceed a total pension of 100 percent of said average earnings for a period of ten (10) years certain and life. After 10 years of service as defined in Section 17, this pension right shall be a vested right with the payment thereof to begin upon the employee's separation from the service or the employee's reaching the age of 46 years, whichever occurs later, so that an employee having 10 or more years of such service who resigns, retires, or is otherwise separated from the service prior to reaching the age of 46 years may elect to allow his contributions to remain in the Pension Fund and upon reaching the age of 46 years shall be entitled to commence receiving a pension based upon his service as herein provided, and should such employee die before reaching 46 years of age, then at the time that decedent would have reached 46 years of age the widow or widower shall receive such benefit as the widow or widower would have received under subparagraph 9(C) if the employee had died while receiving a pension. Provided however, any member of the Pension Fund who was actively employed as a firefighter or police officer in the City of Tampa on or after October 1, 2003, or a member of the Fund on or after October 1, 2003, and, prior to October 16, 1992, was a participant of Division B of the General Employees Pension Plan as established by chapter 81-497, Laws of Florida, as amended, shall receive benefits from this Pension Fund at the rate of 3.15 percent of average earnings for each year of service in this Pension Fund, provided however, the 3.15 percent accrual shall not apply to any service while the member was a participant of Division B of the General Employees Pension Plan; provided, further, that upon reaching social security normal retirement age, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by

an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) Any member who in the service has received or shall receive within or without the city any injuries, disease or disability, which injury, disease or disability now permanently incapacitates him physically or mentally from regular and continuous duty as a firefighter or police officer, then he shall receive in equal monthly installments an amount equal to 65% of monthly salary in effect at date of disability retirement, plus 1/12 of any other earnings received within one year prior to date of disability retirement for a period of ten (10) years certain and life. For any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(C) Any member of the fund who has completed ten (10) years of creditable service and becomes permanently incapacitated, physically or mentally, from regular and continuous service as a firefighter or police officer as a result of any injury, disease or disability which is not incurred in the service of the City, shall receive in equal monthly installments for a period of ten (10) years certain and life an amount equal to the greater of (1) 2% of his average salary (as above computed) for each year of service with a minimum of 25% and a maximum of 50% of average salary or (2) the accrued benefit under Section 7(A) based upon years of service and average salary determined as of the date of disability. For any member of this Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age, or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(D) Notwithstanding the foregoing, any member of this Pension Fund having an aggregate of 20 years of service as a firefighter or police officer in said departments either in this Pension Fund or Division B of the General Employees Pension Plan, or a combination thereof, may elect to enter into the Deferred Retirement Option Program (DROP), or, if the member separates from the service as a firefighter or police officer, may elect to commence immediate receipt of benefits regardless of age.

(E) In lieu of the amount and form of pension payable as provided in Section 7(A), Section 7(B) or Section 7(C) of this contract, a member, upon written request to the Board and subject to the approval of the Board, may elect to receive a pension of equivalent actuarial value payable in accordance with one of the following options:

(1) A pension of a larger monthly amount, payable to the member for his lifetime only;

(2) A pension of a modified monthly amount, payable to the member during the joint lifetime of the member and a joint annuitant designated by the member, and following the death of either of them, 100 percent, 75 percent, 66 2/3 percent, or 50 percent of such monthly amounts payable to the survivor for the lifetime of the survivor;

(3) Such other amount and form of pension as, in the opinion of the Board, will best meet the circumstances of the retiring member.

No member may make any change in his retirement option after the date of cashing or depositing the first pension check.

(F) Upon electing one of the optional forms of pension income, the member shall designate the joint annuitant or beneficiary (or beneficiaries) to receive the benefit, if any, payable under this Fund in the event of the member’s death, and the member will have the power to change such designation from time to time, but any such change shall be deemed a new election

and will be subject to approval by the Board. Such designation will name a joint annuitant or one or more primary beneficiaries where applicable. If a member has elected an option with a joint annuitant or beneficiary, and his pension has commenced, the member may thereafter change the designated joint annuitant or beneficiary, but only if the Board consents thereto, and only if the joint annuitant last previously designated by the member is alive when the member files a request for such change in writing with the Board. The consent of the member's joint annuitant or beneficiary to any such change shall not be required. The Board may request such evidence of the good health of the joint annuitant that is being removed as it may require, and the amount of the pension payable to the member upon designation of a new joint annuitant shall be actuarially redetermined taking into account the age and sex of the former joint annuitant, the new joint annuitant, and the member. Each such designation shall be made in writing on a form prescribed by the Board and filed with the Board. In the event that no designated beneficiary survives the member, such benefits as are payable in the event of the member's death subsequent to his retirement shall be paid to the member's estate. Pension payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(1) If a member dies prior to retirement, benefits, if any, will be payable in accordance with Section 8 or 9 of this contract;

(2) If the designated beneficiary (or beneficiaries) or joint annuitant dies before the member's retirement, the option elected will be cancelled automatically and a pension as provided for pursuant to Section 7(A), Section 7(B) or Section 7(C) of this contract will be payable to the member upon retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the member prior to retirement and within 90 days after the death of the beneficiary;

(3) If both the retired member and the beneficiary (beneficiaries) designated by the member die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, the Board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum to the member's estate;

(4) If a member continues to work beyond his normal retirement date pursuant to the provisions of this section, and dies from causes not attributable to active duties prior to actual retirement and separation from service, while a monthly retirement benefit option has been elected by the member, monthly pension payments will be made, under the selected option to a beneficiary (or beneficiaries) designated by the member in the amount computed as if the member had retired under the option on the date on which death occurred.

(G)

(1) Each member may designate in writing to the Board, on a form prescribed by the Board, a choice of one or more persons, named sequentially or jointly, as his beneficiary (or beneficiaries) to receive the benefit payable pursuant to Section 8(F) or Section 9(E), if any, which may be payable in the event of the member's death; and each designation may be revoked by the member by signing and filing in writing with the Board a new designation of beneficiary form.

(2) A retired member may change his designation of joint annuitant or beneficiary only twice.

(3) If no beneficiary is named in the manner herein provided, death benefits shall be paid pursuant to Section 8(A)-(E) or Section 9(A)-(D). If there are no persons eligible for benefits pursuant to Section 8(A)-(E) or Section 9(A)-(D), and if no beneficiary designated by the member survives the member, the death benefit, if any, which may be payable under this contract with respect to such deceased member shall be paid by the Board to the estate of such deceased member, provided that the Board, in its discretion, may direct that the commuted value of the remaining monthly pension payments be paid in a lump sum. Any payment made to any person pursuant to this subsection shall operate as a complete discharge of all obligations under this contract with regard to the deceased member and any other persons with rights under this contract and shall not be subject to review by anyone, but shall be final, binding, and conclusive on all persons ever interested hereunder.

(H) If the monthly pension payable to any person entitled to benefits under this contract is less than $100, or if the single-sum value of the accrued pension is less than $5,000 for firefighters and $2,500 for police officers, as of the date of retirement or termination of service, whichever is applicable, the Board, in the exercise of its discretion, may specify that the actuarial equivalent of such pension be paid in a lump sum. The discount rate used to calculate the present value of lump sum payouts shall be equal to the immediately preceding cost-of-living adjustment paid pursuant to Section 23 of this contract.

(I) The Board shall make such rules as are necessary for the effective and efficient administration of Sections 7, 8, and 9, 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. Notwithstanding any other provision of this section to the contrary, any provision of this section shall be construed and administered in such manner that the fund 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 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 contract.

(J) Effective October 1, 2004, the minimum monthly pension for any retired member or eligible surviving spouse shall be 100 percent of the amount of the poverty level for an individual member or a member with a family of two, as the case may be, as established annually by the Federal Bureau of Labor and Statistics and published in the Federal Register.

SECTION 8. If any member of either department shall lose his life or later die from injuries or causes occurring while in the discharge of his duties, and shall leave a widow or widower, or child or children under the age of eighteen (18) years, or age twenty-

three (23) if a full-time student, the Board shall authorize and direct payment of a pension to the widow or widower and/or child or children, but only in the following amounts and on the following conditions:

(A) To the widow or widower in equal monthly installments an amount equal to sixty-five per centum (65%) of the member's final year's earnings, computed from date of death, until death. For the widow or widower of a firefighter or police officer killed in the line of duty prior to October 1, 1969, the minimum benefit under this section shall be $1,500 per month (Base plus PRAA). For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

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

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

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

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

(F) In the absence of an eligible surviving spouse or minor children, to the extent required by the Florida Statutes, in the event of the death of a member prior to retirement, the member's designated beneficiary shall be entitled to the benefits otherwise payable to the member at normal retirement age for ten (10) years certain.

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

SECTION 9. To the widow or widower (until death or remarriage) and child or children (under the age of eighteen (18) years), until death or marriage before reaching the age of eighteen (18) years, of any member who dies from causes not attributed to his active duties in the departments, provided, however, that such member shall have been a member of such department for ten (10) years prior to the date of his death, the Trustees shall authorize and direct payment in equal monthly installments as follows:

(A) To the widow or widower in equal monthly installments sixty-five per centum (65%) of the service retirement pension earned by the member at date of death. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) To the child or children of a member who dies from causes not attributed to active duties in the department, the provisions of Section 8, governing the amounts and conditions of administration of childrens' pensions, shall apply but subject to a limitation on the combined payments to a widow or widower and children equal to fifty per centum (50%) of final salary.

(C)

(1) The widow or widower of a member who dies while receiving a retirement pension shall receive sixty-five per centum (65%) of the pension which the member was receiving; provided however, that no pension shall be allowed to any widow or widower unless she or he was married to the member prior to the date of retirement of the member, except as provided in paragraph (2). For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the

General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(2)

(a) Members (i) who have been retired for less than forty (40) years as of the effective date of this act, (ii) who retired or entered DROP prior to October 1, 2002, and (iii) who married or remarried after the date of the member's retirement may elect prospectively to receive a voluntarily reduced retirement benefit payable to the widow or widower. The amount of the widow or widower's benefit will be based on the actuarial equivalence calculated by the Fund's actuary, and such benefit shall not result in any additional cost to the Fund or to the plan sponsor than would have been incurred if the member had not elected such benefit under this paragraph. Said actuarial calculation shall be paid for by the retired member.

(b) The election under subparagraph (a) is available only if (i) the spouse is not more than twenty (20) years younger than the married or remarried member, (ii) the marriage or remarriage occurred at least three (3) years prior to the member's said election, and (iii) the electing member is restricted to exercising this provision for a maximum of two remarriages after retirement.

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

(E) In the absence of an eligible surviving spouse or minor children, to the extent required by the Florida Statutes, in the event of the death of a vested member prior to retirement, the member's designated beneficiary shall be entitled to the benefits otherwise payable to the member at normal retirement age for ten (10) years certain.

(F) In the event a retired firefighter or police officer dies after retirement but before he or she has received retirement benefits for a period of ten (10) years, the same monthly benefit will be paid to the eligible surviving spouse, or if there is no eligible surviving spouse, to the beneficiary as designated by the member for the balance of such ten (10) year period.

SECTION 10. Any firefighter or police officer of the City who makes his legal election as provided herein, and who shall make the contribution required to be made hereunder into the Pension Fund, shall be permitted to participate in the fund and benefits thereof, herein and hereby authorized, but nothing herein contained shall be construed as to require or compel any employee to participate in the said pension system. Each firefighter and police officer who does not elect to join this Pension Fund shall remain or become a member of Division B of the General Employees' Pension Plan, as established by Chapter 81-497, Laws of Florida, as amended.

SECTION 11. Except for each firefighter and police officer who on October 15, 1992 was a member of Division B of the General Employees' Pension Plan for the City of Tampa, all persons entering the employ of the City, as firefighters or police officers subsequent to the time when this Act shall have become a law, shall be required to file their legal election with the City, on or before ninety days from the date of their employment, in order to entitle them to participate in the benefits and funds herein created and authorized by this Act.

SECTION 12. Whenever any employee, within the terms of this Act, shall file his election with the City of Tampa as hereinbefore provided, the City, within thirty (30) days thereafter, is hereby authorized, empowered and directed to execute a contract as provided for herein in triplicate, one copy to be retained by the City, one copy to be retained by the Pension Board, and the other copy to be delivered to the said employee joining in said contract, and shall thereafter be and remain a contract binding upon the said City and the employee, and enforceable in any Court in the State of Florida having jurisdiction of actions upon contracts in like amount, and by such relief, ordinary or extraordinary, at law, or in equity as may be suitable or appropriate in similar cases.

SECTION 13. **MEDICAL BOARD**. The Board of Trustees shall designate a Medical Board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of this Act, shall investigate all essential statements or certificates made by or on behalf of a member in connection with an application for disability or retirement and shall report in writing to the Board of Trustees its conclusions and recommendations upon all matters referred to it. The payment for such services shall be determined by the Board of Trustees.

SECTION 14. On compulsory retirement of a member by act of the Board of Trustees any such retired member shall have the right to appeal against such retirement by the Board of Trustees by appealing to a court of proper jurisdiction, and said member shall defray his own expense in his appeal of such compulsory retirement.

SECTION 15. Members entitled to a pension shall not forfeit the same upon dismissal from the department, but shall be retired as herein described.

SECTION 16. In the event a member who has been retired on a pension on account of permanent incapacity regains his full health and is shown to be physically able to perform his duties in the Fire or Police Department, the Board shall require the said member to resume his position in the respective department and discontinue the pension; provided, however, that, if such member shall have been retired for disability in line of duty, shall not have reached the age of forty-six (46) years and shall within eighteen (18) months after resuming his position pay into the fund an amount equal to the aggregate contributions (computed upon his annual earnings at the time of his disability retirement) he would have been required to make hereunder during the period of his disability retirement had he not been retired, such member shall receive creditable service for the period of such disability retirement.

SECTION 17. **COMPUTATION OF PENSION SERVICE AND PURCHASE OF PAST CREDITED SERVICE**.

(A) In computing service allowance, creditable service shall include all service or employment of the member in the Fire or Police Department, either continuous or interrupted, provided, however, that any leave of absence without pay shall not be included. Credited service shall include credit for up to five (5) years of the time spent in the military service of the Armed Forces of the United States if the member is in the active employ of the City of Tampa immediately prior to such service and leaves a permanent, full-time position as a firefighter or police officer with the City of Tampa for the purpose of voluntary or involuntary service in the Armed Forces of the United States. The member must be entitled to re-employment under the provisions of the Uniformed Services Employment and Re-Employment Rights Act (USERRA). In order to be eligible for the benefits of this section, a member must return to employment as a firefighter or a police officer of the City of Tampa within one (1) year from the date of release of such active service. Pension contributions shall not be required for military service as described in this section, unless permitted by the Florida Statutes. The provision of this section shall not apply to temporary service for reserve training. However, the amount of any pension or compensation that may be received from the Federal Government on account of disability from such service shall be deducted from the amount of any pension due under this Act. The deduction of the amount of any pension or compensation received from the Federal Government shall be made only where the period of military service (not exceeding five (5) years) is added to the period of actual service of the member in either the Fire or Police Department in order to make up the required number of years for retirement on a City pension; that the disability for which any pension or compensation is received from the Federal Government shall be only such disability that was incurred in the military service during the same period of military service used by the member to add to his actual service in the Police or Fire Departments in order to make up the number of years required for retirement on a City pension; and that no deduction of the amount of any pension or compensation received from the Federal Government can or shall be made from the amount of any City pension granted solely on account of disability. Any member who, in order to perform such active military service, has left his employment in the Police or Fire Departments of the City of Tampa and (a) who received a certificate of honorable discharge upon completion of such active military service, (b) is still qualified to perform the duties of such position, (c) makes or shall have made application for reemployment within thirty (30) days after he is released from active military service, shall be restored by the Police or Fire Department of the City of Tampa to such position or a position of like seniority, status and pay.

(B) Immediately upon the passage of this Act the Board of Trustees shall at once establish the service record of all employees, who may be entitled to participate in the benefits of this Act, and shall keep a record thereof.

(C) For each firefighter and police officer who on October 15, 1992 was not a member of this Pension Fund, but who was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, who elects to join this pension fund, for purposes of determining eligibility for any benefit in which length of service is a factor, the entire period of time served as a firefighter or police officer with the City of Tampa, either continuous or interrupted, shall be included; provided, however, that any leave of absence without pay shall not be included unless required by applicable law, any service as a police recruit shall not be included, and any service in which the firefighter or police officer withdrew his/her contributions shall not be included. Active military service shall be included to the extent required by law.

(D) A member who has separated from service as a firefighter or police officer and who has taken a refund of his pension contributions, who is later readmitted to the Fund, shall have the option of purchasing past creditable service.

(1) The readmitted member shall make the election in writing to purchase past creditable service on a form prescribed by the Board within 90 days of readmission, which election shall be legally binding.

(2) The readmitted member who elects to purchase past creditable service shall repay the withdrawn contributions with interest at the actuarially assumed rate of return of the Fund within 90 days of the later of, readmission or receipt of written notification from the Board of the amount due. Interest shall be calculated from the date of withdrawal to the date of repayment at the actuarially assumed rate of return of the Fund.

(3) A member who fails to pay withdrawn contributions with interest as provided in this subsection within 90 days of the later of, readmission or receipt of written notification from the Board of the amount due, shall not receive creditable service for the period of time for which the withdrawn contributions apply.

(E) All active police officer or firefighter members shall be permitted to purchase up to an additional five (5) years of credited service based upon (i) service as a full-time certified firefighter or certified police officer employed by a city, county, state,

federal, or other public agency, or (ii) military service in the Armed Forces of the United States. Temporary, auxiliary, reserve, volunteer, or private agency service shall not apply. Service credit purchased under the provisions of this section shall not count for vesting purposes.

(1) Prior service shall not be granted until the member has paid to the Pension Fund the actuarial cost of the service purchased, as determined by the actuary for the Plan. Said actuarial calculation shall be paid for by the member. Members purchasing service credit shall provide the Board of Trustees with proof of prior service with honorable separation. No service credit may be purchased if the member is receiving or will receive any other retirement benefit based on this service, except in the case of a military pension.

(2) The contribution by the member of the actuarially determined cost of the buyback may be made in one lump sum or may be made by payroll deductions in installments for a period of time which shall not exceed the number of years being purchased. A member electing to make installment payments shall be charged interest based on the actuarially assumed rate of return for the Plan. A member making installment payments shall complete all required payments prior to payment of any benefit under this section.

(3) A member who terminates service prior to vesting in the Plan shall be entitled to a refund, without interest, of all money paid to buy back prior military, firefighter, or police officer service.

SECTION 18. No pension provided for herein shall be assignable or subject to garnishment for debt or for other legal process.

SECTION 19. **DURATION OF MEMBER'S PENSION**. Pensions granted to retired members shall be paid to them for life and shall not be revoked nor in any way diminished except as provided in this Act, and the payments of the member to this fund shall cease upon his retirement and acceptance of a pension.

SECTION 20. The Board of Trustees shall direct that there be included in the pension list, and be subject to the benefits of this Act, all pensions now being paid by the Fund to widows and widowers and children and retired members of the Fire and Police Departments who are now drawing a pension from said fund or may be hereafter entitled thereto, but not to exceed the maximum provided by this Act, and are hereby directed to pay said pensions.

SECTION 21. The Board of Trustees shall have the power to examine into the facts upon which any pension shall have heretofore been granted under any prior or existing law, or shall hereafter be granted under this Act, and ascertain if any pension has been granted or obtained erroneously, fraudulently, or illegally for any reason. Said Board is empowered to purge the pension rolls of any person heretofore granted a pension under prior or existing law, or hereafter granted under this Act, if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any pensioner who has heretofore under any prior or existing law, or who shall hereafter under this Act, be erroneously, improperly or illegally classified.

SECTION 22. Whenever any member in the service of either the Fire or Police Department shall sever his connection with such department, either voluntarily or by lawful discharge, all rights under this Act shall thereupon cease automatically unless at the time of such discharge or voluntary retirement such member has qualified under the terms of this Act for a pension as herein provided. Upon severance prior to qualifying for retirement, a member shall receive a refund of contributions without interest provided, that a member may voluntarily leave his contributions in the Fund for a period of 5 years after terminating employment with the Fire or Police Department, pending the possibility of being rehired by the same department without losing credit for the time he has participated actively as a firefighter or police officer. If the member is not re-employed as a firefighter or police officer, with the same department, within 5 years after terminating such employment, his contributions shall be returned without interest. In the event of the death of a member who is not vested, the member's designated beneficiary shall receive a return of the member's contributions without interest. In the event that the member has not designated a beneficiary, the member's estate shall be deemed the designated beneficiary.

SECTION 23.

(1) Commencing September 30, 1970, the size of the Fund, excluding the 13th check account, determined on a market value basis, shall be compared with the amount that would have been in the Fund, excluding the 13th check account, had the fund, excluding the 13th check account, earned 5 percent, inclusive of realized and unrealized capital gains and losses, compounded annually from October 1, 1969. If on any September 30, the actual fund, excluding the 13th check account, exceeds the 5 percent accumulation, the excess will be known as the Post Retirement Adjustment Account, provided that for this purpose the 5 percent accumulation will not be reduced by any post-retirement benefit adjustment payments.

(2) Commencing January 1, 1980, and on each January 1 thereafter, installments due in the following twelve months to members and beneficiaries covered under this contract shall be increased or decreased by (a) below, but shall not be increased by more than (b) below:

(a) The increase or decrease since the preceding January 1, in the ratio of the current average cost-of-living index to the average cost-of-living index determined as the later of October 1, 1978, and the October 1 immediately preceding the date such installments commenced, rounded off to the nearest whole per centum.

(b) The increase which can be applied and continued for remaining installments, by using the excess, if any, on the

preceding September 30 of the Post Retirement Adjustment Account over the value of previous cumulative adjustments if continued for remaining installments, all as determined by the Actuary.

(c) Provided that the effect of such cumulative adjustments shall not be such as to reduce installment payments below the rate at which they would have been paid if no such adjustments had ever been made.

(d) The "average cost-of-living index" shall be ascertained each year; determined as the average of the immediately preceding 24 monthly consumer price index figures, relative to the United States as a whole, known as The Consumer Price Index for All Urban Consumers (CPI-U), (1982-84 = 100 Basis), most recently issued as of such date by the Bureau of Labor Statistics. Should the base point or basis of the monthly Consumer Price Index be revised by the Bureau of Labor Statistics, this term shall mean the published average as adjusted by the Board of Trustees with advice from the Actuary so as to maintain consistency in index figures for purposes of this Plan.

(3) If a member elects to commence receipt of subparagraph 7(A) benefits after 20 years of service immediately upon separation from service as provided in subparagraph 7(D) or to enter into the Deferred Retirement Option Program (DROP) and prior to reaching the age of 46 years, adjustments provided for in this section shall commence on January 1 immediately following the October 1 on or before which the member separates from service as a firefighter or police officer in the fire department or police department, respectively, or enters the Deferred Retirement Option Program (DROP).

(4) Only benefits paid by this Pension Fund shall be subject to cost-of-living adjustments as provided herein.

SECTION 24.

(A) In the event that the provisions of the federal Internal Revenue Code operate to limit the benefit amount that the member or the member's survivors would otherwise be eligible to receive pursuant to the City of Tampa Firefighters and Police Officers Pension Contract, then the member or the member's survivors shall not receive from the City Pension Fund for Firefighters and Police Officers in the City of Tampa retirement benefits in an amount in excess of the limits provided by the federal Internal Revenue Code or in an amount that would cause the City Pension Fund for Firefighters and Police Officers in the City of Tampa to lose its federal income tax exempt status.

(B) In order to maintain the tax exempt status of the City Pension Fund for Firefighters and Police Officers in the City of Tampa, said pension fund shall not be required to pay benefits in excess of the appropriate limits established by Section 415 of the Internal Revenue Code (26 USC Section 415), nor shall said pension fund be required to pay any benefits which would jeopardize its tax exempt status.

(C) Should the benefits otherwise payable pursuant to the City of Tampa Firefighters and Police Officers Pension Contract by the City Pension Fund for Firefighters and Police Officers in the City of Tampa be limited pursuant to Section 415 of the Internal Revenue Code, then the City of Tampa shall provide for payment of those benefits in excess of the limits in Section 415 of the Internal Revenue Code.

(D) Notwithstanding any other provision of this pension contract to the contrary, any provision of this pension contract shall be construed and administered in such manner that this Pension Fund 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 necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this pension contract.

SECTION 25.

(A) To the extent that any provision of this contract is in conflict with sections 112.60 - .67, Florida Statutes, or other provisions of the Florida Statutes made applicable to the Fund, excluding chapters 175 and 185, Florida Statutes, those provisions of the Florida Statutes shall prevail.

(B) To the extent that any provision of this contract would result in the loss of the tax-exempt status of the Fund, such contractual provision shall be null and void.

(C) To the extent that any provision of this contract is not in compliance with the minimum benefits provisions of chapters 175 and 185, Florida Statutes, that apply to the Fund, the non-compliance with which would result in a forfeiture of the right of the fund to participate in the distribution of the premium tax funds established in chapters 175 and 185, Florida Statutes, the City is authorized to amend this contract by local ordinance to cure such non-compliance, only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance, such ordinance is consistent with the terms of a collective bargaining agreement entered into among the City and the certified bargaining agents for firefighters and police officers, the procedures for the adoption of such ordinance are consistent with section 112.63(3), Florida Statutes, and such ordinance is adopted prior to March 31, 2003. Any local ordinance adopted by the City pursuant to this subparagraph shall be incorporated by reference into the pension contract of each firefighter and police officer who is an active or contributing member of the Fund on the date the amendments to such contract provided in such ordinance become effective.

(D) To the extent that any provision of this contract is not in compliance with the minimum standards provisions of chapters 175 and 185, Florida Statutes, that apply to the Fund, the non-compliance with which would result in a forfeiture of the right of the Fund to participate in the distribution of the premium tax funds established in chapters 175 and 185, Florida Statutes, the City is authorized to amend this contract by local ordinance to cure such non-compliance, provided such ordinance is consistent with the terms of a collective bargaining agreement entered into among the City and the certified bargaining agents for firefighters and police officers,

and such ordinance is adopted prior to March 31, 2003. Any local ordinance adopted by the City pursuant to this subparagraph shall be incorporated by reference into the pension contract of each firefighter and police officer who is an active or contributing member of the Fund on the date the amendments to such contract provided in such ordinance become effective.

SECTION 26. DEFERRED RETIREMENT OPTION PROGRAM

Notwithstanding any other provisions of this contract, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is an option under which an eligible member may elect to have the member's pension benefits calculated as of a certain date prior to retirement, and accumulate benefits plus the investment return pursuant to this section during the DROP calculation period. Participation in the DROP does not guarantee employment for the DROP calculation period, as defined in this section.

(A) Eligibility- In order to be eligible for the DROP option, the member must meet the following eligibility criteria:

(1) The member must have attained at least 20 years of service but no more than 30 years of service at the time the member files an election under this section. The service must be as a firefighter or police officer in the fire department or the police department, respectively, either in this Pension Fund or Division B of the General Employees Pension Plan, or a combination thereof. A member is eligible for accumulations pursuant to the DROP for the lesser of 5 years, or the difference between 30 years of service and the member's service as of the effective date of the member's DROP election. However, if a member has attained at least 25 years of service on the date this act becomes a law and elects to participate in the DROP within 90 days after receipt of written notice from the Board of Trustees, the member is eligible for a 5-year DROP calculation period following the date this act becomes a law.

(2) The member must meet all eligibility requirements for pension benefits, other than separation from service as a firefighter or police officer in the fire department or police department, respectively.

(3) Upon electing to participate in the DROP, the member shall submit on forms required by the City and the Board of Trustees:

(a) An irrevocable written election to participate in the DROP, specifying a DROP benefit calculation date. This DROP benefit calculation date is used to determine the DROP calculation period, which commences on the DROP benefit calculation date and ends on the earlier of (i) the last day of DROP eligibility as determined under paragraph (1) or (ii) the member's separation from service or death;

(b) An irrevocable notice of employment termination to take effect upon the expiration of the DROP calculation period; provided that a DROP participant shall not be precluded from voluntarily terminating employment with the City as a firefighter or police officer before the expiration of the DROP calculation period, nor shall the City be precluded from terminating such 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;

(c) A properly completed application for longevity retirement benefits to be calculated pursuant to subparagraph 7(A) or subparagraph 7(D) as of the DROP benefit calculation date; and

(d) Any other information required by the Board of Trustees.

(4) A member may only make one DROP election during the member's lifetime.

(B) Status - For pension purposes only:

(1) During the DROP calculation period, there shall be no pension contribution deductions made from the earnings, wages, salary, or compensation earned by the DROP participant.

(2) Upon entry into the DROP, a DROP participant shall no longer be entitled to disability benefits pursuant to subparagraph 7(B) or subparagraph 7(C).

(3) Death benefits under the DROP.--Upon the death of a DROP participant, the named beneficiary or beneficiaries shall be entitled to receive the benefits accumulated during the DROP calculation period as of the date of death. After the death of such DROP participant, pension benefits shall be paid as required by Section 9, provided however that a surviving spouse who was not married to the member during some period of the member's employment as a firefighter or police officer prior to the date of the member's entry into the DROP shall not be entitled to Section 9 benefits. Eligibility to participate in the DROP terminates upon the death of such DROP participant.

(4) A DROP participant shall not be eligible to be elected as a member of the Board of Trustees.

(5) During DROP participation, a DROP participant shall be entitled to the 13th check benefit pursuant to Section 27.

(C) Benefits under the DROP -

(1) Effective with the DROP benefit calculation date, a DROP participant's monthly pension installments calculated pursuant to Section 7, including creditable service, such participant's average earnings and the effective date of retirement shall be fixed.

(2) The DROP accumulation shall be calculated as follows:

(a) The amount of the 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.

(b) The amount of any cost of living adjustments pursuant to Section 23 during the DROP benefit calculation

period.

(c) Interest accumulation as set forth in this section.

(d) The amount of the 13th check pursuant to Section 27.

(3) At the conclusion of the member's DROP benefit calculation period, the Board of Trustees shall distribute the member's benefits, subject to the following provisions:

(a) The Board of Trustees shall receive verification by the City that such DROP participant's employment as a firefighter or police officer with the fire department or police department, respectively, has terminated.

(b) A terminated DROP participant or, if deceased, such participant's named beneficiary or beneficiaries, shall elect on forms provided by the Board of Trustees to receive the DROP benefits in accordance with one of the options provided in subparagraph 26(E)(1). Once a DROP participant commences distribution under a payment method (or receives a lump sum), no further interest shall be payable to the DROP participant. For a DROP participant or beneficiary who fails to elect a method of payment within 60 days of termination of DROP participation, the Board of Trustees will pay a lump sum as provided hereafter.

(D) **Interest and Administrative Costs -** Interest shall accumulate annually, whether positive or negative, during the DROP calculation period, less the cost of administering the DROP, all of which shall be determined by the Board of Trustees. A DROP participant shall have the opportunity to elect, as provided in this subsection, an investment option to be applied to such DROP participant's account for the Plan Year when entering the DROP and for each subsequent Plan Year. In such election, the DROP participant shall choose to have interest accumulate annually, whether positive or negative, at either (i) a rate reflecting the Fund's net investment performance, as determined by the Board of Trustees, or (ii) a rate reflecting a low-risk variable rate selected annually by the Board of Trustees in its sole discretion. Each election must be made at such time, on such forms, and in such manner as the Board of Trustees may determine in its sole discretion. If the DROP participant fails to make a valid election upon entering the DROP, the Fund interest rate shall be applied as provided herein. If the DROP participant fails to make a valid election in a subsequent Plan Year, the election for the then-current Plan Year shall be applied.

(E) **Payment**

(1) Upon termination of employment with the City as a firefighter or police officer in the fire department or police department, respectively, the accumulated DROP benefits at the option of the terminated DROP participant, or if deceased, such participant's designated beneficiary or beneficiaries, shall 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 by rules and regulations adopted by the Board of Trustees, provided that such distribution may be adjusted by the Board of Trustees to maintain Internal Revenue Code qualification of the Fund.

(2) If a DROP participant dies during the DROP calculation period, or on or before the DROP participant's full DROP accumulation is distributed, any remaining DROP accumulation shall be distributed to the DROP participant's designated beneficiary or beneficiaries, or, if there is no surviving designated beneficiary, to the participant's spouse, or if there is no surviving designated beneficiary and no surviving spouse, to the participant's estate. Any such payment shall be made in a lump sum payment, unless the participant had already commenced benefit payment of their DROP accumulation in an optional plan. In such an event, benefits shall continue to be paid pursuant to the optional benefit form selected.

(3) The form of distribution elected by a DROP participant or surviving beneficiary must comply with the applicable requirements of the Internal Revenue Code.

(4) A DROP participant who is involuntarily discharged who seeks review of such discharge shall 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 provided in subparagraph 26(A)(1), whichever is first.

(5) The accumulated benefits of any DROP participant, including any interest thereon, shall not be subject to assignment, garnishment, execution, attachment, or to any legal process whatsoever, except income deduction orders as provided in section 61.1301, Florida Statutes, and federal income tax levies.

(6) Upon termination from employment with the City as a firefighter or police officer in the fire department or police department, respectively, the monthly pension installments pursuant to Section 7 and the cost of living adjustments pursuant to Section 23, shall be paid to the member, and upon death of the member, monthly pension installments shall be paid pursuant to Section 9 with cost of living adjustments pursuant to Section 23.

(F) **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 rule 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.

(G) **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 DROP. The Board of Trustees shall 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. 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 necessary to accomplish the purpose of this section as is necessary to retain tax qualification, which rule shall have the force of law and shall be considered part of this pension contract.

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

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

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

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

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

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

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

(B) **13th Check Account**

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

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

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

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

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

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

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

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

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

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

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

SECTION 28. ELECTION TO PURCHASE PAST CREDITABLE SERVICE BY CERTAIN FIREFIGHTERS AND POLICE OFFICERS.

(A) Each firefighter and police officer who, on October 15, 1992, was a member in Division B of the General Employees' Pension Plan for the City of Tampa, who became a member of this Fund for service occurring on and after October 16, 1992, and who is a member of this Fund on or after June 1, 2002, may elect to purchase creditable service under this Pension Contract for service as a firefighter or police officer with the City of Tampa prior to October 16, 1992, if said employee complies with the following:

(1) Notify the City of Tampa and the Board of Trustees of this Fund, in writing, at any time between July 1, 2002, and December 31, 2002, of his or her desire to purchase creditable service for all or any portion of such past service and the time period of such service to be purchased;

(2) Upon electing to purchase creditable service for such past service, submit on a form required by the City an irrevocable waiver of any pension benefits under the General Employees' Pension Plan for the City of Tampa, which waiver shall apply only to the time period of such service to be purchased; and

(3) By September 30, 2003, pay into the Pension Fund a sum of money equal to the aggregate employee contributions, plus compound interest thereon at a rate as determined by the Board, which the employee would have paid into the Fund pursuant to Section 2 (D) of this Contract, had the employee participated in the Fund during the period of such prior service that said employee has elected to purchase.

(B) For each firefighter and police officer electing to purchase creditable service for past service as provided in this section, the City shall pay into the Pension Fund, by September 30, 2003, a sum of money equal to the City contributions, plus compound interest thereon at the rate determined by the Board pursuant to Section 28 (A) (3), which the City would have paid into the Fund for such firefighters and police officers pursuant to Section 2(B) and (C) of this Contract, had such firefighters and police officers participated in the Fund during the period of such prior service that such firefighters and police officers have elected to purchase.

(C) Benefits for creditable service purchased by firefighters and police officers pursuant to this section shall be calculated in the same manner as are such firefighters' and police officers' benefits for creditable service commencing on October 16, 1992, provided that there shall be no reduction in benefits for such creditable service purchased as otherwise required pursuant to Section 7 (A), (B), or (C), Section 8 (A), or Section 9 (A) or (C) of this Contract.

(D) 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. 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.

WHEREAS, it is beneficial to the said City to have its employees protected by the terms of said fund and benefits and the said employee is desirous of participating in said fund and benefits, it is thereupon,

UNDERSTOOD AND AGREED by and between the parties that the party of the second part does hereby allot, out of his salary, wages or compensation, paid to him by the said City, the required percentage of his earnings and does hereby authorize and direct the disbursing officer or officers of said City to retain out of said wages, salary or compensation said percentage in compliance with the terms of the aforesaid Act of the Legislature, and to continue to make said allotment and authorize said deduction throughout the entire time of his employment or reemployment, or until such time as he shall be entitled to receive the pension allowance or benefit provided by the Fund created in the aforesaid Act.

IT IS FURTHER UNDERSTOOD AND AGREED by and between the parties that the said Board will accept said allotment or deduction from the salary, wages or compensation of said employee aforesaid, and when, under the terms of the aforesaid Act, said employee or other beneficiary of said employee shall be entitled, under the terms of the aforesaid provisions to receive the benefits from said Fund therein created, will pay said sum or sums from said Fund and all other benefits so authorized to said employee or his other beneficiaries, in accordance with said terms without diminution or deduction.

IT IS FURTHER UNDERSTOOD AND AGREED that this contract shall remain in force without change, modification or amendment, until all the purposes now intended to be fulfilled shall have been fully performed, except that payment or other benefits to the party of the second part or such party's beneficiaries may be increased but not diminished except as provided in Section 23.

IT IS FURTHER UNDERSTOOD AND AGREED that employees shall not lose any rights under the terms of this contract by reason of the refusal of the City at any time during the terms hereof to make allotment or deduction from such employees' earnings.

IT IS FURTHER UNDERSTOOD AND AGREED that it is the intention of the parties hereto to create vested rights in the respective parties not to be hereinafter impaired for any cause whatsoever.

IT IS FURTHER UNDERSTOOD AND AGREED that the terms of the provisions hereinbefore set forth are declared to be a part of this contract and this contract is to be construed with reference thereto.

IT IS FURTHER UNDERSTOOD AND AGREED that this contract supersedes any and all contracts heretofore entered into by the parties hereto upon or relating to the subject matter hereof and that any and all of such contracts are supplemental by replacement hereby as of the day and year first above written.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed, with the seal of said City, by its duly authorized officers, and the said party of the second part has hereunto set his hand and seal the day and year first above written.

CITY OF TAMPA

Attested by:

_____
City Clerk

BY: _____
Mayor

* * * * *

_____
Employee Signature

_____
Employee Name --Printed--

_____
Date Signed by Employee

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

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CITY OF TAMPA
FIREFIGHTERS AND POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN CHAPTER 2011-240, LAWS OF FLORIDA)

Name Printed:_____ Fire ___ or Police ___ ID #:_____

This agreement made and entered into this _____ day of _____, 2011,
[print today's date, the date you are signing this contract]
between the CITY OF TAMPA, a municipal corporation of the State of Florida hereinafter referred to as the City, party of the first part, and _____
[print your name here]
hereinafter described as member, party of the second part, supplementing and amending the Pension Contract(s) previously entered into between the parties.

W I T N E S S E T H:

THAT WHEREAS, the City is authorized and empowered to enter into a supplemental pension contract with each and every firefighter or police officer who was an active member of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on or after the date this act becomes a law, or each firefighter or police officer who hereafter enters into a pension contract with the City, amending Section 5(C), Section 6, Section 9(C), Section 17, and Section 26(D) of the City Pension Fund for Firefighters and Police Officers in the City of Tampa Pension Contract to read:

SECTION 5. The general administration and responsibility for the proper operation of the pension system and for making effective the provisions of this Act are hereby vested in a board consisting of nine persons, as follows:

(1) Three members of the City Administration other than firefighters or police officers to be appointed as hereinafter provided;

(2) Three members of the Fire Department to be elected as hereinafter provided;

and

(3) Three members of the Police Department to be elected as hereinafter provided.

(A) The term of office of each trustee shall be three years, except that the initial terms of the trustees of each class shall respectively be for one, two, and three years. The initial terms shall commence on the 60th day after the ordinance approving and authorizing this contract shall become a law.

(B) The appointive trustees shall be appointed by the Mayor.

(C) The elective trustees shall be elected in the following manner, to wit: by per capita vote of all members of each of said respective departments who come within the purview of this Act, both active and retired, at elections to be held at places designated by the Board, at which elections all qualified members entitled to vote shall be notified in person or by mail ten days in advance of said election. The candidate receiving the majority of votes for each office shall be declared elected and shall take office immediately upon commencement of the term of office for which elected or as soon thereafter as he shall qualify therefor. An election shall be held each year not more than sixty (60) and not less than ten (10) days prior to the commencement of the terms for which trustees are to be elected in that year. The Board of Trustees shall meet, organize, and elect one trustee as chairman, one trustee as vice chairman, and one trustee as secretary within ten days after any trustees are elected and duly qualified.

(D) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(E) The trustees shall serve without compensation, but they may be reimbursed from the expense fund for all necessary expenses which they may actually expend through services on the board.

(F) Each trustee shall, within ten days after his appointment or election, take an oath of office before the City Clerk of said City, that so far as it devolves upon him he will diligently and honestly administer the affairs

of the said Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the member making it and certified by the said clerk and filed in his office.

(G) Each trustee shall be entitled to one vote on the Board. Five votes shall be necessary for a decision by the trustees at any meeting of the Board. The chairman shall have the right to one vote only.

(H) Subject to the limitations of this Act the Board of Trustees shall from time to time establish rules and regulations for the administration of funds created by this Act and for transaction of its business, including provisions for compulsory attendance of its members, which shall have the force of law.

(I) The Board of Trustees shall by majority vote of its members appoint a secretary, who may, but need not be, one of its members. It shall engage such actuarial and other services as shall be required to transact the business of the pension system. The compensation of all persons engaged by the Board of Trustees and all other expenses of the Board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the Board of Trustees shall agree, but in no case shall the expenditures for such services or operations exceed three per cent of the maximum of the fund each fiscal year. All funds shall be disbursed by the Board of Trustees. The secretary shall be bonded in such amount, not less than five thousand dollars, as the Board shall determine. The premium for said bond to be paid out of this fund.

(J) Any trustee who neglects the duties of his office shall be removed by the Board of Trustees.

SECTION 6. Money shall be withdrawn from the Pension Fund created by this Act only upon warrants executed by a majority of the Board of Trustees. Monies needed for the meeting of the current obligations of said fund may be deposited in a depository recognized by law for the deposit of funds of the State of Florida and upon the posting of similar security for that required for state deposits. The Board shall have exclusive charge of the investment of any surplus in said fund not needed for the current obligations thereof; and said funds shall be managed by said Board and shall be invested by said Board in accordance with the following:

(1) That the Board shall retain the services of one or more nationally recognized professional investment counselors.

(2) That not less than once every six (6) months a written opinion shall be obtained from the investment counselor or counselors as to the overall condition and composition of the investment portfolio.

(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 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 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 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 twenty-five per centum (25%) of said fund, based on the total market 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. The investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law.

SECTION 9. To the widow or widower (until death or remarriage) and child or children (under the age of eighteen (18) years), until death or marriage before reaching the age of eighteen (18) years, of any member who dies from causes not attributed to his active duties in the departments, provided, however, that such member shall have

been a member of such department for ten (10) years prior to the date of his death, the Trustees shall authorize and direct payment in equal monthly installments as follows:

(A) To the widow or widower in equal monthly installments sixty-five per centum (65%) of the service retirement pension earned by the member at date of death. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) To the child or children of a member who dies from causes not attributed to active duties in the department, the provisions of Section 8, governing the amounts and conditions of administration of childrens' pensions, shall apply but subject to a limitation on the combined payments to a widow or widower and children equal to fifty per centum (50%) of final salary.

(C)

(1) The widow or widower of a member who dies while receiving a retirement pension shall receive sixty-five per centum (65%) of the pension which the member was receiving; provided however, that no pension shall be allowed to any widow or widower unless she or he was married to the member prior to the date of retirement of the member, except as provided in paragraph (2). For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(2)

(a) Members (i) who have been retired for less than forty (40) years as of the effective date of this act, (ii) who retired or entered DROP prior to October 1, 2002, and (iii) who married or remarried after the date of the member's retirement may elect prospectively to receive a voluntarily reduced retirement benefit payable to the widow or widower. The amount of the widow or widower's benefit will be based on the actuarial equivalence calculated by the Fund's actuary, and such benefit shall not result in any additional cost to the Fund or to the plan sponsor than would have been incurred if the member had not elected such benefit under this paragraph. Said actuarial calculation shall be paid for by the retired member.

(b) The election under subparagraph (a) is available only if (i) the spouse is not more than twenty (20) years younger than the married or remarried member, (ii) the marriage or remarriage occurred at least three (3) years prior to the member's said election, and (iii) the electing member is restricted to exercising this provision for a maximum of two remarriages after retirement.

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

(E) In the absence of an eligible surviving spouse or minor children, to the extent required by the

Florida Statutes, in the event of the death of a vested member prior to retirement, the member's designated beneficiary shall be entitled to the benefits otherwise payable to the member at normal retirement age for ten (10) years certain.

(F) In the event a retired firefighter or police officer dies after retirement but before he or she has received retirement benefits for a period of ten (10) years, the same monthly benefit will be paid to the eligible surviving spouse, or if there is no eligible surviving spouse, to the beneficiary as designated by the member for the balance of such ten (10) year period.

SECTION 17. COMPUTATION OF PENSION SERVICE AND PURCHASE OF PAST CREDITED SERVICE.

(A) In computing service allowance, creditable service shall include all service or employment of the member in the Fire or Police Department, either continuous or interrupted, provided, however, that any leave of absence without pay shall not be included. Credited service shall include credit for up to five (5) years of the time spent in the military service of the Armed Forces of the United States if the member is in the active employ of the City of Tampa immediately prior to such service and leaves a permanent, full-time position as a firefighter or police officer with the City of Tampa for the purpose of voluntary or involuntary service in the Armed Forces of the United States. The member must be entitled to re-employment under the provisions of the Uniformed Services Employment and Re-Employment Rights Act (USERRA). In order to be eligible for the benefits of this section, a member must return to employment as a firefighter or a police officer of the City of Tampa within one (1) year from the date of release of such active service. Pension contributions shall not be required for military service as described in this section, unless permitted by the Florida Statutes. The provision of this section shall not apply to temporary service for reserve training. However, the amount of any pension or compensation that may be received from the Federal Government on account of disability from such service shall be deducted from the amount of any pension due under this Act. The deduction of the amount of any pension or compensation received from the Federal Government shall be made only where the period of military service (not exceeding five (5) years) is added to the period of actual service of the member in either the Fire or Police Department in order to make up the required number of years for retirement on a City pension; that the disability for which any pension or compensation is received from the Federal Government shall be only such disability that was incurred in the military service during the same period of military service used by the member to add to his actual service in the Police or Fire Departments in order to make up the number of years required for retirement on a City pension; and that no deduction of the amount of any pension or compensation received from the Federal Government can or shall be made from the amount of any City pension granted solely on account of disability. Any member who, in order to perform such active military service, has left his employment in the Police or Fire Departments of the City of Tampa and (a) who received a certificate of honorable discharge upon completion of such active military service, (b) is still qualified to perform the duties of such position, (c) makes or shall have made application for reemployment within thirty (30) days after he is released from active military service, shall be restored by the Police or Fire Department of the City of Tampa to such position or a position of like seniority, status and pay.

(B) Immediately upon the passage of this Act the Board of Trustees shall at once establish the service record of all employees, who may be entitled to participate in the benefits of this Act, and shall keep a record thereof.

(C) For each firefighter and police officer who on October 15, 1992 was not a member of this Pension Fund, but who was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, who elects to join this pension fund, for purposes of determining eligibility for any benefit in which length of service is a factor, the entire period of time served as a firefighter or police officer with the City of Tampa, either continuous or interrupted, shall be included; provided, however, that any leave of absence without pay shall not be included unless required by applicable law, any service as a police recruit shall not be included, and any service in which the firefighter or police officer withdrew his/her contributions shall not be included. Active military service shall be included to the extent required by law.

(D) A member who has separated from service as a firefighter or police officer and who has taken a refund of his pension contributions, who is later readmitted to the Fund, shall have the option of purchasing past creditable service.

(1) The readmitted member shall make the election in writing to purchase past creditable service on a form prescribed by the Board within 90 days of readmission, which election shall be legally binding.

(2) The readmitted member who elects to purchase past creditable service shall repay the withdrawn contributions with interest at the actuarially assumed rate of return of the Fund within 90 days of the later of, readmission or receipt of written notification from the Board of the amount due. Interest shall be calculated from the date of withdrawal to the date of repayment at the actuarially assumed rate of return of the Fund.

(3) A member who fails to pay withdrawn contributions with interest as provided in this subsection within 90 days of the later of, readmission or receipt of written notification from the Board of the amount due, shall not receive creditable service for the period of time for which the withdrawn contributions apply.

(E) All active police officer or firefighter members shall be permitted to purchase up to an additional five (5) years of credited service based upon (i) service as a full-time certified firefighter or certified police officer employed by a city, county, state, federal, or other public agency, or (ii) military service in the Armed Forces of the United States. Temporary, auxiliary, reserve, volunteer, or private agency service shall not apply. Service credit purchased under the provisions of this section shall not count for vesting purposes.

(1) Prior service shall not be granted until the member has paid to the Pension Fund the actuarial cost of the service purchased, as determined by the actuary for the Plan. Said actuarial calculation shall be paid for by the member. Members purchasing service credit shall provide the Board of Trustees with proof of prior service with honorable separation. No service credit may be purchased if the member is receiving or will receive any other retirement benefit based on this service, except in the case of a military pension.

(2) The contribution by the member of the actuarially determined cost of the buyback may be made in one lump sum or may be made by payroll deductions in installments for a period of time which shall not exceed the number of years being purchased. A member electing to make installment payments shall be charged interest based on the actuarially assumed rate of return for the Plan. A member making installment payments shall complete all required payments prior to payment of any benefit under this section.

(3) A member who terminates service prior to vesting in the Plan shall be entitled to a refund, without interest, of all money paid to buy back prior military, firefighter, or police officer service.

SECTION 26. DEFERRED RETIREMENT OPTION PROGRAM

Notwithstanding any other provisions of this contract, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is an option under which an eligible member may elect to have the member's pension benefits calculated as of a certain date prior to retirement, and accumulate benefits plus the investment return pursuant to this section during the DROP calculation period. Participation in the DROP does not guarantee employment for the DROP calculation period, as defined in this section.

(A) Eligibility- In order to be eligible for the DROP option, the member must meet the following eligibility criteria:

(1) The member must have attained at least 20 years of service but no more than 30 years of service at the time the member files an election under this section. The service must be as a firefighter or police officer in the fire department or the police department, respectively, either in this Pension Fund or Division B of the General Employees Pension Plan, or a combination thereof. A member is eligible for accumulations pursuant to the DROP for the lesser of 5 years, or the difference between 30 years of service and the member's service as of the effective date of the member's DROP election. However, if a member has attained at least 25 years of service on the date this act becomes a law and elects to participate in the DROP within 90 days after receipt of written notice from the Board of Trustees, the member is eligible for a 5-year DROP calculation period following the date this act becomes a law.

(2) The member must meet all eligibility requirements for pension benefits, other than separation from service as a firefighter or police officer in the fire department or police department, respectively.

(3) Upon electing to participate in the DROP, the member shall submit on forms required by the City and the Board of Trustees:

(a) An irrevocable written election to participate in the DROP, specifying a DROP benefit calculation date. This DROP benefit calculation date is used to determine the DROP calculation period, which commences on the DROP benefit calculation date and ends on the earlier of (i) the last day of DROP eligibility as determined under paragraph (1) or (ii) the member's separation from service or death;

(b) An irrevocable notice of employment termination to take effect upon the expiration of the DROP calculation period; provided that a DROP participant shall not be precluded from voluntarily terminating

employment with the City as a firefighter or police officer before the expiration of the DROP calculation period, nor shall the City be precluded from terminating such 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;

(c) A properly completed application for longevity retirement benefits to be calculated pursuant to subparagraph 7(A) or subparagraph 7(D) as of the DROP benefit calculation date; and

(d) Any other information required by the Board of Trustees.

(4) A member may only make one DROP election during the member's lifetime.

(B) Status - For pension purposes only:

(1) During the DROP calculation period, there shall be no pension contribution deductions made from the earnings, wages, salary, or compensation earned by the DROP participant.

(2) Upon entry into the DROP, a DROP participant shall no longer be entitled to disability benefits pursuant to subparagraph 7(B) or subparagraph 7(C).

(3) Death benefits under the DROP.--Upon the death of a DROP participant, the named beneficiary or beneficiaries shall be entitled to receive the benefits accumulated during the DROP calculation period as of the date of death. After the death of such DROP participant, pension benefits shall be paid as required by Section 9, provided however that a surviving spouse who was not married to the member during some period of the member's employment as a firefighter or police officer prior to the date of the member's entry into the DROP shall not be entitled to Section 9 benefits. Eligibility to participate in the DROP terminates upon the death of such DROP participant.

(4) A DROP participant shall not be eligible to be elected as a member of the Board of Trustees.

(5) During DROP participation, a DROP participant shall be entitled to the 13th check benefit pursuant to Section 27.

(C) Benefits under the DROP -

(1) Effective with the DROP benefit calculation date, a DROP participant's monthly pension installments calculated pursuant to Section 7, including creditable service, such participant's average earnings and the effective date of retirement shall be fixed.

(2) The DROP accumulation shall be calculated as follows:

(a) The amount of the 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.

(b) The amount of any cost of living adjustments pursuant to Section 23 during the DROP benefit calculation period.

(c) Interest accumulation as set forth in this section.

(d) The amount of the 13th check pursuant to Section 27.

(3) At the conclusion of the member's DROP benefit calculation period, the Board of Trustees shall distribute the member's benefits, subject to the following provisions:

(a) The Board of Trustees shall receive verification by the City that such DROP participant's employment as a firefighter or police officer with the fire department or police department, respectively, has terminated.

(b) A terminated DROP participant or, if deceased, such participant's named beneficiary or beneficiaries, shall elect on forms provided by the Board of Trustees to receive the DROP benefits in accordance with one of the options provided in subparagraph 26(E)(1). Once a DROP participant commences distribution under a payment method (or receives a lump sum), no further interest shall be payable to the DROP participant. For a DROP participant or beneficiary who fails to elect a method of payment within 60 days of termination of DROP participation, the Board of Trustees will pay a lump sum as provided hereafter.

(D) **Interest and Administrative Costs** - Interest shall accumulate annually, whether positive or negative, during the DROP calculation period, less the cost of administering the DROP, all of which shall be determined by the Board of Trustees. A DROP participant shall have the opportunity to elect, as provided in this subsection, an investment option to be applied to such DROP participant's account for the Plan Year when entering the DROP and for each subsequent Plan Year. In such election, the DROP participant shall choose to have interest accumulate annually, whether positive or negative, at either (i) a rate reflecting the Fund's net investment performance, as determined by the Board of Trustees, or (ii) a rate reflecting a low-risk variable rate selected annually by the Board of Trustees in its sole discretion. Each election must be made at such time, on

such forms, and in such manner as the Board of Trustees may determine in its sole discretion. If the DROP participant fails to make a valid election upon entering the DROP, the Fund interest rate shall be applied as provided herein. If the DROP participant fails to make a valid election in a subsequent Plan Year, the election for the then-current Plan Year shall be applied.

(E) **Payment**

(1) Upon termination of employment with the City as a firefighter or police officer in the fire department or police department, respectively, the accumulated DROP benefits at the option of the terminated DROP participant, or if deceased, such participant's designated beneficiary or beneficiaries, shall 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 by rules and regulations adopted by the Board of Trustees, provided that such distribution may be adjusted by the Board of Trustees to maintain Internal Revenue Code qualification of the Fund.

(2) If a DROP participant dies during the DROP calculation period, or on or before the DROP participant's full DROP accumulation is distributed, any remaining DROP accumulation shall be distributed to the DROP participant's designated beneficiary or beneficiaries, or, if there is no surviving designated beneficiary, to the participant's spouse, or if there is no surviving designated beneficiary and no surviving spouse, to the participant's estate. Any such payment shall be made in a lump sum payment, unless the participant had already commenced benefit payment of their DROP accumulation in an optional plan. In such an event, benefits shall continue to be paid pursuant to the optional benefit form selected.

(3) The form of distribution elected by a DROP participant or surviving beneficiary must comply with the applicable requirements of the Internal Revenue Code.

(4) A DROP participant who is involuntarily discharged who seeks review of such discharge shall 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 provided in subparagraph 26(A)(1), whichever is first.

(5) The accumulated benefits of any DROP participant, including any interest thereon, shall not be subject to assignment, garnishment, execution, attachment, or to any legal process whatsoever, except income deduction orders as provided in section 61.1301, Florida Statutes, and federal income tax levies.

(6) Upon termination from employment with the City as a firefighter or police officer in the fire department or police department, respectively, the monthly pension installments pursuant to Section 7 and the cost of living adjustments pursuant to Section 23, shall be paid to the member, and upon death of the member, monthly pension installments shall be paid pursuant to Section 9 with cost of living adjustments pursuant to Section 23.

(F) **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 rule 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.

(G) **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 DROP. The Board of Trustees shall 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. 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 necessary to accomplish the purpose of this section as is necessary to retain tax qualification, which rule shall have the force of law and shall be considered part of this pension contract.

IT IS UNDERSTOOD AND AGREED that the terms and provisions hereinbefore set forth are declared to be part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of the City by its duly authorized officers and the party of the second part has hereunto set his/her hand and seal the day and year first above written.

CITY OF TAMPA

Attested by:

_____
City Clerk

By: _____
Mayor

* * * * *

_____
Employee Signature

_____
Employee Name --Printed--

_____
Date Signed by Employee

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

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CITY OF TAMPA
FIREFIGHTERS AND POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN CHAPTER 2007-304, LAWS OF FLORIDA)

Name Printed:_____ Fire ___ or Police ___ ID #:_____

This agreement made and entered into this _____ day of _____, 2007,
[print today's date, the date you are signing this contract]
between the CITY OF TAMPA, a municipal corporation of the State of Florida hereinafter referred to as the City, party of the first part, and _____
[print your name here]
hereinafter described as member, party of the second part, supplementing and amending the Pension Contract(s) previously entered into between the parties.

WITNESSETH:

THAT WHEREAS, the City is authorized to enter into a supplemental pension contract with each and every firefighter or police officer who was an active member of the City Pension Fund for Firefighters and Police Officers in the City of Tampa in the City of Tampa on or after the date this act becomes a law, or who hereafter enters into a pension contract with the City, amending Section 27(B)(1) of the City Pension Fund for Firefighters and Police Officers in the City of Tampa Pension Contract to read:

Section 27(B)(1)

(B) **13th Check Account**

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

IT IS UNDERSTOOD AND AGREED that the terms and provisions hereinbefore set forth are declared to be part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of the City by its duly authorized officers and the party of the second part has hereunto set his/her hand and seal the day and year first above written.

CITY OF TAMPA

Attested by:

BY: _____
Mayor

_____
City Clerk

* * * * *

_____
Employee Signature

_____
Employee Name --Printed--

_____
Date Signed by Employee

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

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CITY OF TAMPA
FIREFIGHTERS AND POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN CHAPTER 2004-427, LAWS OF FLORIDA)

Name Printed:_____ Fire ___ or Police ___ ID #:_____

This agreement made and entered into this _____ day of _____, 2004, [print today's date, the date you are signing this contract] between the CITY OF TAMPA, a municipal corporation of the State of Florida hereinafter referred to as the City, party of the first part, and _____ [print your name here] hereinafter described as member, party of the second part, supplementing and amending the Pension Contract(s) previously entered into between the parties.

WITNESSETH:

THAT WHEREAS, the City is authorized to enter into a supplemental pension contract, the application of which shall be prospective commencing on October 1, 2004 with each and every firefighter or police officer who is entitled to benefits under the City Pension Fund for Firefighters and Police Officers in the City of Tampa and was actively employed as a firefighter or police officer in the City of Tampa on or after October 1, 2003, who was an active and contributing member of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on the date this act becomes a law, or who hereafter enters into a pension contract with the City, amending Section 3(E), Section 4(3) and Section 7(A) and (B) and creating Section 7(J) of the City of Tampa Firefighters and Police Officers Pension Contract to read:

Section 3(E)

Commencing for earnings paid the first pay date after October 1, 2004, the term "earnings" shall mean total cash remuneration paid by the City to a firefighter or police officer for services rendered, including any payments required to be included within the definition of compensation pursuant to Chapters 175 and 185, Florida Statutes, but not including any payments for extra duty. Commencing for earnings paid the first pay date after October 1, 2004, earnings shall also include payments for overtime paid by the City to a firefighter or police officer up to a maximum of 300 hours of overtime per calendar year.

Section 4(3)

Pass a complete medical examination including, but not limited to, echo-cardiogram, functional examination of the back and neck, and any other specific diagnostic tests as determined by the Medical Board based upon the individual's risk factors, medical history and physical examination.

SECTION 7. BENEFITS, PENSIONS TO MEMBERS.

The Board shall upon its application retire:

(A) Any member of the Fund having an aggregate of 10 years of service as defined in Section 17 in said departments, and having reached the age of 46 years, who then shall receive in monthly installments a pension equal to 31.5 percent of the member's average earnings for the three (3) highest years within the last 10 years of service for a period of ten (10) years certain and life. For each additional year of such service after 10 years, a member shall receive 3.15 percent of average earnings, not to exceed

a total pension of 100 percent of said average earnings for a period of ten (10) years certain and life. After 10 years of service as defined in Section 17, this pension right shall be a vested right with the payment thereof to begin upon the employee's separation from the service or the employee's reaching the age of 46 years, whichever occurs later, so that an employee having 10 or more years of such service who resigns, retires, or is otherwise separated from the service prior to reaching the age of 46 years may elect to allow his contributions to remain in the Pension Fund and upon reaching the age of 46 years shall be entitled to commence receiving a pension based upon his service as herein provided, and should such employee die before reaching 46 years of age, then at the time that decedent would have reached 46 years of age the widow or widower shall receive such benefit as the widow or widower would have received under subparagraph 9(C) if the employee had died while receiving a pension. Provided however, any member of the Pension Fund who was actively employed as a firefighter or police officer in the City of Tampa on or after October 1, 2003, or a member of the Fund on or after October 1, 2003, and, prior to October 16, 1992, was a participant of Division B of the General Employees Pension Plan as established by chapter 81-497, Laws of Florida, as amended, shall receive benefits from this Pension Fund at the rate of 3.15 percent of average earnings for each year of service in this Pension Fund, provided however, the 3.15 percent accrual shall not apply to any service while the member was a participant of Division B of the General Employees Pension Plan; provided, further, that upon reaching social security normal retirement age, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) Any member who in the service has received or shall receive within or without the city any injuries, disease or disability, which injury, disease or disability now permanently incapacitates him physically or mentally from regular and continuous duty as a firefighter or police officer, then he shall receive in equal monthly installments an amount equal to 65% of monthly salary in effect at date of disability retirement plus 1/12 of any other earnings received within one year prior to date of disability retirement for a period of ten (10) years certain and life. For any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(J) Effective October 1, 2004, the minimum monthly pension for any retired member or eligible surviving spouse shall be 100 percent of the amount of the poverty level for an individual member or a member with a family of two, as the case may be, as established annually by the Federal Bureau of Labor and Statistics and published in the Federal Register.

IT IS UNDERSTOOD AND AGREED that the terms and provisions hereinbefore set forth are declared to be part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of the City by its duly authorized officers and the party of the second part has hereunto set his/her hand and seal the day and year first above written.

CITY OF TAMPA

Attested by:

BY: _____
Mayor

_____
City Clerk

* * * * *

_____
Employee Signature

_____
Employee Name --Printed--

_____
Date Signed by Employee

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

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CITY OF TAMPA FIREFIGHTERS AND POLICE OFFICERS PENSION CONTRACT

THIS AGREEMENT, made and entered into this _____ day of _____, _____ [print today's date] by and between the City of Tampa, a municipal corporation under the laws of the State of Florida (hereinafter referred to as "City" or party of the first part), and _____ [print your name here] (hereinafter referred to as "Employee" or party of the second part), for the purpose of providing retirement and other ancillary benefits to Employee in recognition of service with the City as a firefighter or police officer.

Name Printed:_____ Fire ___ or Police ___ F&P #:_____

WITNESSETH:

WHEREAS, pursuant to the provisions of various Special Acts of the State of Florida and Ordinances of the City of Tampa, the City of Tampa is authorized and empowered to enter into a pension contract with each and every firefighter and police officer who is employed by the City of Tampa, who is authorized to join the City Pension Fund for Firefighters and Police Officers in the City of Tampa, and elects to do so, as follows:

SECTION 1. There is hereby created a special fund to be known as the City Pension Fund for Firefighters and Police Officers in the City of Tampa (hereinafter referred to as the Fund); said Fund to be used exclusively for the purpose provided for in this Act, which Fund shall be collected, administered and disbursed according to the provisions of this Act.

SECTION 2. The said Pension Fund shall consist of monies and properties derived from the following sources, which shall be set apart and placed to the credit of such Fund:

(A) The monies and assets now deposited to the credit of and held by the City Pension Fund for Firemen and Policemen of the City of Tampa.

(B) Commencing October 1, 1969, the City shall contribute eleven per centum (11%) of all earnings of employees covered under this contract, which contribution shall be deposited in the Fund at least quarterly. Commencing October 1, 1970, the City shall contribute at the rate of thirteen per centum (13%), and shall continue to increase the rate of contributions by two per centum (2%) on each October 1 thereafter, until such time as a continuation of the then current rate of contribution (or lesser rate of contribution), together with contributions provided for in Section 2(C), Section 2(D), and contributions expected from other sources, shall, pursuant to the most recent actuarial report, be sufficient if continued at such level, to fund:

(1) The normal annual cost of the benefits other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than the 13th check benefits pursuant to Section 27, provided for in this contract; and

(2) Any remaining unfunded past service cost of such benefits over a period of thirty years from the date of the last actuarial report;

(3) Where such costs are determined on a basis consistent with the requirements of actuarial soundness, and the requirements of Chapters 175 and 185 of the Florida Statutes, as they may be amended from time to time, provided that the investment yield assumed in determining such costs shall not exceed 5%. After such time the City shall contribute at such rate of earnings which will be sufficient, if continued, to fund the normal cost each year and the remaining unfunded past service cost over a period of thirty years from the date of the most recent actuarial report received from time to time;

(4) Provided, however, that in no case shall the contributions by the City in any year, and exclusive of income from other sources, be less than 133, or 134 percent if paid quarterly, of the total sum contributed by employees as provided in (D) below, excluding contributions for the 13th check benefit; it being expressly understood that when the requirements for continued actuarial soundness of the plan are determined to require less contributions than would result hereby, the contributions from the City and employees will be proportionately reduced to rates which will reasonably generate such reduced amount.

(C) The City shall make additional contributions each year as follows:

(1) In the event that the average earnings of all of the members covered under this contract for any twelve month period ending September 30 (determined for this purpose as the total earnings for such period divided by the average of the number of members covered at the beginning and end of the period), shall exceed the similar average earnings for the preceding twelve month period by A%, then commencing on October 1 an additional annual contribution shall be made by the City, equal to A% multiplied by the total earnings for the twelve months preceding such October 1, and multiplied by the pension cost factor associated with such increases as set forth in the most recent actuarial report received from time to time, subject to (2) below;

(2) Such additional contributions, together with contributions similarly determined in previous years, shall continue to be paid each year on a cumulative basis until the contributions from all sources (other than investment income) shall meet the standards set forth in Section 2(B)(1), (2), (3), and (4) after which time such contributions shall be reduced as provided for in the most recent actuarial report received from time to time.

(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, subject to a minimum annual contribution of not less than one-half of one percent (0.5%) of the total earnings of each such employee, 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 deposited in the Fund immediately after each pay period:

Earnings in Twelve-Month Period Commencing October 1	Employee Contribution Rate
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.

(E) All monies and assets which shall be received by the Board for deposit to the credit of or for the account of the Fund from all other sources including the State of Florida.

(F) No monies raised by taxation or otherwise provided for said Pension Fund shall be used other than for the purposes of this Act.

(G) To the extent that the City of Tampa provides for the payment of benefits otherwise payable by the City Pension Fund for Firefighters and Police Officers in the City of Tampa but for the limits in Section 415 of the Internal Revenue Code, then there shall be a reduction in the amount of the City's contributions otherwise payable to the City Pension Fund for Firefighters and Police Officers in the City of Tampa by an amount equivalent to the amount of benefits provided for by the City of Tampa; provided, however, such amounts shall be included in the calculation of the City's contributions to the City Pension Fund for Firefighters and Police Officers in the City of Tampa pursuant to Section 2(B) of this pension contract.

(H) Notwithstanding the contribution rate schedule set forth herein, the contribution rate of each firefighter and police officer who on October 15, 1992 was a member in Division B of the General Employees' Pension Plan for the City of Tampa, who becomes a member of this Fund, shall be reduced by such firefighter's or police officer's social security contribution, and the City shall pay to the Fund the amount by which such employee's contribution is reduced by the end of the calendar quarter. For purposes of this section, the term "social security contribution" shall mean that amount required to be paid by such firefighter or police officer pursuant to Section 3111(a) of the Code (regarding contributions toward the Old-Age, Survivors, and Disability Insurance). Notwithstanding any adjustment that may be required herein, the total annual contribution required of said firefighter or police officer shall not be less than one-half of one percent (0.5%) of the total earnings of each such firefighter or police officer, or such other amount as is required by Chapter 175 or Chapter 185, Florida Statutes, in order for this Pension Fund to participate in the distribution of the tax funds established by Chapter 175 or Chapter 185, Florida Statutes.

(I) Notwithstanding any other provision of this pension contract, as amended, to the contrary, to the extent that the contribution rate of the firefighter or police officer who was a member in Division B of the General Employees' Pension Plan for the City of Tampa, is less than such firefighters' or police officer's social security contribution made for the same period, such firefighter or police officer shall be entitled to a special payment from the City of Tampa in an amount equal to such excess plus the amount of the tax allowance (as defined below). Payments made pursuant to this subsection (including the tax allowance) shall constitute special payments and are not included as earnings. For purposes of this subsection, such firefighter's or police officer's "tax allowance" shall approximate:

(1) the amount necessary to compensate the firefighter or police officer to the extent of any increase in the firefighter's or police officer's federal, state and local income taxes which occur as a result of the inclusion of the special payment made pursuant hereto in such firefighter's or police officer's taxable income; plus

(2) an amount necessary to compensate the firefighter or police officer for the net increase in the taxes described in subparagraph (1) above as a result of the inclusion in such firefighter's or police officer's taxable income of any payment made pursuant hereto.

The amounts described in (1) and (2) above shall be calculated by multiplying the special payment by the gross up percentage of such taxable year. The "gross up percentage" for any year shall be determined by utilizing the following formula, with the "tax rate" being the sum of (i) the highest percentage income tax rate determined pursuant to Section 1(a) of the Code (for married individuals filing joint returns) applicable for the taxable year in which such payments will be included in taxable income, based on the annualized average rate of monthly salary for those firefighters and police officers receiving the special payments, plus, to the extent applicable, (ii) the rate specified under Section 3111(a) of the Code:

"[(1 / (1 - tax rate)] - 1"

The tax allowance shall be paid to the firefighter or police officer by the City of Tampa. Payment of the tax allowance shall be made on or before the last day of the calendar year to which such special payment relates. For purposes of this subsection the "annualized average rate of monthly salary" shall be the average of the scheduled or stated amount of monthly compensation (without regard to compensation actually paid) of that group of firefighters or police officers who are entitled to special payments herein for the last month of the Plan Year annualized for such Plan Year.

(J) For each firefighter and police officer, who on October 15, 1992 was not a member of this Fund, but who becomes a member of this Pension Fund, for service occurring on and after October 16, 1992 until said firefighter or police officer is formally accepted into membership by the Board of Trustees, the City shall pay within thirty (30) days of acceptance the employee contributions that otherwise would have been paid pursuant to Section 2 of this pension contract, plus interest at the rate of ten percent (10%) per annum. The City shall also pay by the end of the calendar quarter in which said firefighters and police officers were formally accepted the City of Tampa contributions that otherwise would have been paid pursuant to Section 2 of pension contract, plus interest at the rate of ten percent (10%) per annum. Notwithstanding the provisions of Section 22, there shall be no refund of employee contributions which are paid by the City of Tampa on behalf of such firefighters and police officers.

(K) Notwithstanding any other provisions of this section, the City and the employees shall make additional contributions to the 13th Check Benefit Program to the extent set forth in Section 27.

SECTION 3. When used herein the following terms shall have the following meanings:

(A) The term "employee" shall mean any member of the Fire or Police Department employed as a firefighter or police officer, and whose employment shall be regular and continuous and not of a temporary character.

(B) The terms "firefighter" and "police officer" shall be synonymous with the term "employee" as defined above.

(C) The term "member" shall mean an employee contributing or required to contribute to the Fund and entitled to participate in the benefits thereof upon the terms and conditions hereof.

(D) The terms "widow" and "widower" shall mean the lawful wedded spouse of a member of the Fire or Police Department at the time of such member's death.

(E) The term "earnings" shall mean the base salary or wage exclusive of any casual, nonrecurring, or unpredictable overtime, bonuses, or other special payments, providing that regular longevity bonuses shall be included.

(F) The term "actuary" shall mean a Fellow or Associate of the Society of Actuaries, or a firm employing such person, provided that such firm must be nationally recognized in the actuarial field and acceptable to the State Treasurers Office and to the Board of Pension Trustees.

(G) The term "actuarial report" shall mean a report prepared at least once every three years and in any year in which the average earnings of members increases more than two per centum (2%) of the average earnings the year before, and in any year in which the same shall be required by Chapters 175 and 185, Florida Statutes; such study to be prepared by an actuary and accepted by the Board of Trustees; determining the costs of all benefits provided for under this Act as a result of employment of members and former members, including a review of experience and a determination of a pension earnings increase factor or factors, and including determination of the effect of adjustments for expected cost-of-living index changes, based upon the data current as of the effective date of the report; and, based upon cost methods, factors, and assumptions consistent with actuarial soundness, and acceptable to the State of Florida as being consistent with the requirements of Chapters 175 and 185 of the Florida Statutes as they may be from time to time amended.

(H) Wherever the term "he" or "him" appears herein the same shall also include "she" or "her" when applicable.

(I) The term "primary beneficiary" shall mean the beneficiary designated by the member to receive benefits payable, if any, in the event of the member's death.

(J) The term "contingent beneficiary" shall mean the beneficiary or beneficiaries designated to receive benefits payable, if any, in the event of the member's death and the primary beneficiary has predeceased the contingent beneficiary(ies).

(K) The term "joint annuitant" shall mean the person designated by the employee to participate with the employee in one of the optional forms of benefits. The term "joint annuitant" does not apply to the definition of a spousal beneficiary in the option for normal retirement.

(L) The term "normal retirement" shall mean retirement after earning ten (10) years of creditable service and the attainment of age forty-six (46) or retirement after earning twenty (20) years of service, regardless of age, in both cases the member may begin to immediately draw benefits.

SECTION 4. Except as otherwise provided herein, before any person shall become a member of the Pension Fund he or she shall:

(1) be not more than any applicable entry level age limit established by federal law;

(2) be required to furnish a list of all of their medical providers and authorizations to obtain such medical records;

(3) pass a complete medical examination including, but not limited to, electro-cardiogram and exercise stress test, x-ray of the entire spine, and two (2) x-rays anterior-posterior and lateral view of the lumbar sacral spines; and

(4) meet all the requirements of the Civil Service Board of the City except the probationary period.

Such medical records and medical examination also shall be utilized by the Board of Trustees for purposes of establishing baseline medical conditions for reviewing any future claims for disability benefits. Each active firefighter and police officer, who on October 15, 1992 was not a member of this Fund because of his or her age, shall become a member of this Fund, provided said person within thirty (30) days of receipt of written notice from the City of Tampa does not file a written election with the City of Tampa and the Board of Trustees of this Fund electing not to join this Fund, but instead to remain a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended. Each active firefighter and police officer, who on October 15, 1992 was not a member of this Fund and becomes a member of this Pension Fund shall furnish to the Board of Trustees a list of all of their medical providers and authorizations to obtain such medical records within a reasonable period of time as established by the Board of Trustees. Each firefighter and police officer shall also undergo a medical examination by the medical board at the expense of the Board of Trustees for purposes of establishing baseline medical conditions for reviewing any future claims for disability benefits. Any person who is initially employed on or after October 16, 1992, without prior creditable service in this Pension Fund by the City of Tampa for a position with the fire department or police department which position is in the unclassified service, as defined by the Civil Service Law of the City of Tampa and the City of Tampa Civil Service Rules and Regulations, shall not be eligible to join this Pension Fund.

SECTION 5. The general administration and responsibility for the proper operation of the pension system and for making effective the provisions of this Act are hereby vested in a board consisting of nine persons, as follows:

(1) Three members of the City Administration other than firefighters or police officers to be appointed as hereinafter provided;

(2) Three members of the Fire Department to be elected as hereinafter provided; and

(3) Three members of the Police Department to be elected as hereinafter provided.

(A) The term of office of each trustee shall be three years, except that the initial terms of the trustees of each class shall respectively be for one, two, and three years. The initial terms shall commence on the 60th day after the ordinance approving and authorizing this contract shall become a law.

(B) The appointive trustees shall be appointed by the Mayor.

(C) The elective trustees shall be elected in the following manner, to wit: by per capita vote of all members of each of said respective departments who come within the purview of this Act, both active and retired, at meetings to be held at places designated by the Board, at which meetings all qualified members entitled to vote shall be notified in person or by mail ten days in advance of said meeting. The candidate receiving the majority of votes for each office shall be declared elected and shall take office immediately upon commencement of the term of office for which elected or as soon thereafter as he shall qualify therefor. An election shall be held each year not more than thirty and not less than ten days prior to the commencement of the terms for which trustees are to be elected in that year. The Board of Trustees shall meet, organize, and elect one trustee as chairman, one trustee as vice chairman, and one trustee as secretary within ten days after any trustees are elected and duly qualified.

(D) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(E) The trustees shall serve without compensation, but they may be reimbursed from the expense fund for all necessary expenses which they may actually expend through services on the board.

(F) Each trustee shall, within ten days after his appointment or election, take an oath of office before the City Clerk of said City, that so far as it devolves upon him he will diligently and honestly administer the affairs of the said Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the member making it and certified by the said clerk and filed in his office.

(G) Each trustee shall be entitled to one vote on the Board. Five votes shall be necessary for a decision by the trustees at any meeting of the Board. The chairman shall have the right to one vote only.

(H) Subject to the limitations of this Act the Board of Trustees shall from time to time establish rules and regulations for the administration of funds created by this Act and for transaction of its business, including provisions for compulsory attendance of its members, which shall have the force of law.

(I) The Board of Trustees shall by majority vote of its members appoint a secretary, who may, but need not be, one of its members. It shall engage such actuarial and other services as shall be required to transact the business of the pension system. The compensation of all persons engaged by the Board of Trustees and all other expenses of the Board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the Board of Trustees shall agree, but in no case shall the expenditures for such services or operations exceed three per cent of the maximum of the fund each fiscal year. All funds shall be disbursed by the Board of Trustees. The secretary shall be bonded in such amount, not less than five thousand dollars, as the Board shall determine. The premium for said bond to be paid out of this fund.

(J) Any trustee who neglects the duties of his office shall be removed by the Board of Trustees.

SECTION 6. Money shall be withdrawn from the Pension Fund created by this Act only upon warrants executed by a majority of the Board of Trustees. Monies needed for the meeting of the current obligations of said fund may be deposited in a depository recognized by law for the deposit of funds of the State of Florida and upon the posting of similar security for that required for state deposits. The Board shall have exclusive charge of the investment of any surplus in said fund not needed for the current obligations thereof; and said funds shall be managed by said Board and shall be invested by said Board in accordance with the following:

(1) That the Board shall retain the services of a nationally recognized professional investment counsel.

(2) That not less than once every six (6) months a written opinion shall be obtained from the investment counsel as to the overall condition and composition of the investment portfolio.

(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 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 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 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 7. BENEFITS, PENSIONS TO MEMBERS

The Board shall upon its application retire:

(A) Any member of the Fund having an aggregate of 10 years of service as defined in Section 17 in said departments, and having reached the age of 46 years, who then shall receive in monthly installments a pension equal to 25 percent of the member's average earnings for the three (3) highest years within the last 10 years of service with a minimum pension of $100 per month for a period of ten (10) years certain and life. For each additional year of such service after 10 years, a member shall receive 2.5 percent of average earnings, not to exceed a total pension of 100 percent of said average earnings for a period of ten (10) years certain and life. After 10 years of service as defined in Section 17, this pension right shall be a vested right with the payment thereof to begin upon the employee's separation from the service or the employee's reaching the age of 46 years, whichever occurs later, so that an employee having 10 or more years of such service who resigns, retires, or is otherwise separated from the service prior to reaching the age of 46 years may elect to allow his contributions to remain in the Pension Fund and upon reaching the age of 46 years shall be entitled to commence receiving a pension based upon his service as herein provided, and should such employee die before reaching 46 years of age, then at the time that decedent would have reached 46 years of age the widow or widower shall receive such benefit as the widow or widower would have received under subparagraph 9(C) if the employee had died while receiving a pension. Provided however, any member of the Pension Fund who prior to October 16, 1992, was a participant of Division B of the General Employees Pension Plan as established by chapter 81-497, Laws of Florida, as amended, shall receive benefits from this Pension Fund at the rate of 2.5 percent of average earnings for each year of service in this Pension Fund, provided however, the 2.5 percent accrual shall not apply to any service while the member was a participant of Division B of the General Employees Pension Plan; provided, further, that upon reaching social security normal retirement age, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the

City to the extent that such employment is considered to be creditable service under this Fund. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) Any member who in the service has received or shall receive within or without the city any injuries, disease or disability, which injury, disease or disability now permanently incapacitates him physically or mentally from regular and continuous duty as a firefighter or police officer, then he shall receive in equal monthly installments an amount equal to 65% of monthly salary in effect at date of disability retirement with a minimum of $100.00 per month, plus 1/12 of any other earnings received within one year prior to date of disability retirement for a period of ten (10) years certain and life. For any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28 (C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(C) Any member of the fund who has completed ten (10) years of creditable service and becomes permanently incapacitated, physically or mentally, from regular and continuous service as a firefighter or police officer as a result of any injury, disease or disability which is not incurred in the service of the City, shall receive in equal monthly installments for a period of ten (10) years certain and life an amount equal to the greater of (1) 2% of his average salary (as above computed) for each year of service with a minimum of 25% and a maximum of 50% of average salary or (2) the accrued benefit under Section 7(A) based upon years of service and average salary determined as of the date of disability. For any member of this Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age, or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(D) Notwithstanding the foregoing, any member of this Pension Fund having an aggregate of 20 years of service as a firefighter or police officer in said departments either in this Pension Fund or Division B of the General Employees Pension Plan, or a combination thereof, may elect to enter into the Deferred Retirement Option Program (DROP), or, if the member separates from the service as a firefighter or police officer, may elect to commence immediate receipt of benefits regardless of age.

(E) In lieu of the amount and form of pension payable as provided in Section 7(A), Section 7(B) or Section 7(C) of this contract, a member, upon written request to the Board and subject to the approval of the Board, may elect to receive a pension of equivalent actuarial value payable in accordance with one of the following options:

(1) A pension of a larger monthly amount, payable to the member for his lifetime only;

(2) A pension of a modified monthly amount, payable to the member during the joint lifetime of the member and a joint annuitant designated by the member, and following the death of either of them, 100 percent, 75 percent, 66 2/3 percent, or 50 percent of such monthly amounts payable to the survivor for the lifetime of the survivor;

(3) Such other amount and form of pension as, in the opinion of the Board, will best meet the circumstances of the retiring member.

No member may make any change in his retirement option after the date of cashing or depositing the first pension check.

(F) Upon electing one of the optional forms of pension income, the member shall designate the joint annuitant or beneficiary (or beneficiaries) to receive the benefit, if any, payable under this Fund in the event of the member's death, and the member will have the power to change such designation from time to time, but any such change shall be deemed a new election and will be subject to approval by the Board. Such designation will name a joint annuitant or one or more primary beneficiaries where applicable. If a member has elected an option with a joint annuitant or beneficiary, and his pension has commenced, the member may thereafter change the designated joint annuitant or beneficiary, but only if the Board consents thereto, and only if the joint annuitant last previously designated by the member is alive when the member files a request for such change in writing with the Board. The consent of the member's joint annuitant or beneficiary to any such change shall not be required. The Board may request such evidence of the good health of the joint annuitant that is being removed as it may require, and the amount of the pension payable to the member upon designation of a new joint annuitant shall be actuarially redetermined taking into account the age and sex of the former joint annuitant, the new joint annuitant, and the member. Each such designation shall be made in writing on a form prescribed by the Board and filed with the Board. In the event that no designated beneficiary survives the member, such benefits as are payable in the event of the member's death subsequent to his retirement shall be paid to the member's estate. Pension payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(1) If a member dies prior to retirement, benefits, if any, will be payable in accordance with Section 8 or 9 of this contract;

(2) If the designated beneficiary (or beneficiaries) or joint annuitant dies before the member's retirement, the option elected will be cancelled automatically and a pension as provided for pursuant to Section 7(A), Section 7(B) or Section 7(C) of this contract will be payable to the member upon retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the member prior to retirement and within 90 days after the death of the beneficiary;

(3) If both the retired member and the beneficiary (beneficiaries) designated by the member die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, the Board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum to the member's estate;

(4) If a member continues to work beyond his normal retirement date pursuant to the provisions of this section, and dies from causes not attributable to active duties prior to actual retirement and separation from service, while a monthly retirement benefit option has been elected by the member, monthly pension payments will be made, under the selected option to a beneficiary (or beneficiaries) designated by the member in the amount computed as if the member had retired under the option on the date on which death occurred.

(G)

(1) Each member may designate in writing to the Board, on a form prescribed by the Board, a choice of one or more persons, named sequentially or jointly, as his beneficiary (or beneficiaries) to receive the benefit payable pursuant to Section 8(F) or Section 9(E), if any, which may be payable in the event of the member's death; and each designation may be revoked by the member by signing and filing in writing with the Board a new designation of beneficiary form.

(2) A retired member may change his designation of joint annuitant or beneficiary only twice.

(3) If no beneficiary is named in the manner herein provided, death benefits shall be paid pursuant to Section 8(A)-(E) or Section 9(A)-(D). If there are no persons eligible for benefits pursuant to Section 8(A)-(E) or Section 9(A)-(D), and if no beneficiary designated by the member survives the member, the death benefit, if any, which may be payable under this contract with respect to such deceased member shall be paid by the Board to the estate of such deceased member, provided that the Board, in its discretion, may direct that the commuted value of the remaining monthly pension payments be paid in a lump sum. Any payment made to any person pursuant to this subsection shall operate as a complete discharge of all obligations under this contract with regard to the deceased member and any other persons with rights under this contract and shall not be subject to review by anyone, but shall be final, binding, and conclusive on all persons ever interested hereunder.

(H) If the monthly pension payable to any person entitled to benefits under this contract is less than $100, or if the single-sum value of the accrued pension is less than $5,000 for firefighters and $2,500 for police officers, as of the date of retirement or termination of service, whichever is applicable, the Board, in the exercise of its discretion, may specify that the actuarial equivalent of such pension be paid in a lump sum. The discount rate used to calculate the present value of lump sum payouts shall be equal to the immediately preceding cost-of-living adjustment paid pursuant to Section 23 of this contract.

(I) The Board shall make such rules as are necessary for the effective and efficient administration of Sections 7, 8, and 9, 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. Notwithstanding any other provision of this section to the contrary, any provision of this section shall be construed and administered in such manner that the fund 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 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 contract.

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

(A) To the widow or widower in equal monthly installments an amount equal to fifty per centum (50%) of the member's final year's earnings, computed from date of death, until death. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

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

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

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

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

(F) In the absence of an eligible surviving spouse or minor children, to the extent required by the Florida Statutes, in the event of the death of a member prior to retirement, the member's designated beneficiary shall be entitled to the benefits otherwise payable to the member at normal retirement age for ten (10) years certain.

SECTION 9. To the widow or widower (until death or remarriage) and child or children (under the age of eighteen (18) years), until death or marriage before reaching the age of eighteen (18) years, of any member who dies from causes not attributed to his active duties in the departments, provided, however, that such member shall have been a member of such department for ten (10) years prior to the date of his death, the Trustees shall authorize and direct payment in equal monthly installments as follows:

(A) To the widow or widower in equal monthly installments sixty-five per centum (65%) of the service retirement pension earned by the member at date of death. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) To the child or children of a member who dies from causes not attributed to active duties in the department, the provisions of Section 8, governing the amounts and conditions of administration of childrens' pensions, shall apply but subject to a limitation on the combined payments to a widow or widower and children equal to fifty per centum (50%) of final salary.

(C) The widow or widower of a member who dies while receiving a retirement pension shall receive sixty-five per centum (65%) of the pension which the member was receiving; provided however, that no pension shall be allowed to any widow or widower unless she or he was married to the member prior to the date of retirement of the member. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as

provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

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

(E) In the absence of an eligible surviving spouse or minor children, to the extent required by the Florida Statutes, in the event of the death of a vested member prior to retirement, the member's designated beneficiary shall be entitled to the benefits otherwise payable to the member at normal retirement age for ten (10) years certain.

(F) In the event a retired firefighter or police officer dies after retirement but before he or she has received retirement benefits for a period of ten (10) years, the same monthly benefit will be paid to the eligible surviving spouse, or if there is no eligible surviving spouse, to the beneficiary as designated by the member for the balance of such ten (10) year period.

SECTION 10. Any firefighter or police officer of the City who makes his legal election as provided herein, and who shall make the contribution required to be made hereunder into the Pension Fund, shall be permitted to participate in the fund and benefits thereof, herein and hereby authorized, but nothing herein contained shall be construed as to require or compel any employee to participate in the said pension system. Each firefighter and police officer who does not elect to join this Pension Fund shall remain or become a member of Division B of the General Employees' Pension Plan, as established by Chapter 81-497, Laws of Florida, as amended.

SECTION 11. Except for each firefighter and police officer who on October 15, 1992 was a member of Division B of the General Employees' Pension Plan for the City of Tampa, all persons entering the employ of the City, as firefighters or police officers subsequent to the time when this Act shall have become a law, shall be required to file their legal election with the City, on or before ninety days from the date of their employment, in order to entitle them to participate in the benefits and funds herein created and authorized by this Act.

SECTION 12. Whenever any employee, within the terms of this Act, shall file his election with the City of Tampa as hereinbefore provided, the City, within thirty (30) days thereafter, is hereby authorized, empowered and directed to execute a contract as provided for herein in triplicate, one copy to be retained by the City, one copy to be retained by the Pension Board, and the other copy to be delivered to the said employee joining in said contract, and shall thereafter be and remain a contract binding upon the said City and the employee, and enforceable in any Court in the State of Florida having jurisdiction of actions upon contracts in like amount, and by such relief, ordinary or extraordinary, at law, or in equity as may be suitable or appropriate in similar cases.

SECTION 13. MEDICAL BOARD. The Board of Trustees shall designate a Medical Board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of this Act, shall investigate all essential statements or certificates made by or on behalf of a member in connection with an application for disability or retirement and shall report in writing to the Board of Trustees its conclusions and recommendations upon all matters referred to it. The payment for such services shall be determined by the Board of Trustees.

SECTION 14. On compulsory retirement of a member by act of the Board of Trustees any such retired member shall have the right to appeal against such retirement by the Board of Trustees by appealing to a court of proper jurisdiction, and said member shall defray his own expense in his appeal of such compulsory retirement.

SECTION 15. Members entitled to a pension shall not forfeit the same upon dismissal from the department, but shall be retired as herein described.

SECTION 16. In the event a member who has been retired on a pension on account of permanent incapacity regains his full health and is shown to be physically able to perform his duties in the Fire or Police Department, the Board shall require the said member to resume his position in the respective department and discontinue the pension; provided, however, that, if such member shall have been retired for disability in line of duty, shall not have reached the age of forty-six (46) years and shall within eighteen (18) months after resuming his position pay into the fund an amount equal to the aggregate contributions (computed upon his annual earnings at the time of his disability retirement) he would have been required to make hereunder during the period of his disability retirement had he not been retired, such member shall receive creditable service for the period of such disability retirement.

SECTION 17. COMPUTATION OF PENSION SERVICE.

(A) In computing service allowance, creditable service shall include all service or employment of the member in the Fire or Police Department, either continuous or interrupted, provided, however, that any leave of absence without pay shall not be included. Credited service shall include credit for up to five (5) years of the time spent in the military service of the Armed Forces of the United States if the member is in the active employ of the City of Tampa immediately prior to such service and leaves a permanent, full-time position as a firefighter or police officer with the City of Tampa for the purpose of voluntary or involuntary service in the Armed Forces of the United States. The member must be entitled to re-employment under the provisions of the Uniformed Services Employment and Re-Employment Rights Act (USERRA). In order to be eligible for the benefits of this section, a member must return to employment as a firefighter or a police officer of the City of Tampa within one year from the date of release of such active service. Pension contributions shall not be required for military service as described in this section, unless permitted by the Florida Statutes. The provision of this section shall not apply to temporary service for reserve training. No credited service shall be given for military service prior to employment or for service as a firefighter or police officers for any other employer. However, the amount of any pension or compensation that may be received from the Federal Government on account of disability from such service shall be deducted from the amount of any pension due under this Act. The deduction of the amount of any pension or compensation received from the Federal Government shall be made only where the period of military service (not exceeding five (5) years) is added to the period of actual service of the member in either the Fire or Police Department in order to make up the required number of years for retirement on a City pension; that the disability for which any pension or compensation is received from the Federal Government shall be only such disability that was incurred in the military service during the same period of military service used by the member to add to his actual service in the Police or Fire Departments in order to make up the number of years required for retirement on a City pension; and that no deduction of the amount of any pension or compensation received from the Federal Government can or shall be made from the amount of any City pension granted solely on account of disability. Any member who, in order to perform such active military service, has left his employment in the Police or Fire Departments of the City of Tampa and (a) who received a certificate of honorable discharge upon completion of such active military service, (b) is still qualified to perform the duties of such position, (c) makes or shall have made application for reemployment within thirty (30) days after he is released from active military service, shall be restored by the Police or Fire Department of the City of Tampa to such position or a position of like seniority, status and pay.

(B) Immediately upon the passage of this Act the Board of Trustees shall at once establish the service record of all employees, who may be entitled to participate in the benefits of this Act, and shall keep a record thereof.

(C) For each firefighter and police officer who on October 15, 1992 was not a member of this Pension Fund, but who was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, who elects to join this pension fund, for purposes of determining eligibility for any benefit in which length of service is a factor, the entire period of time served as a firefighter or police officer with the City of Tampa, either continuous or interrupted, shall be included; provided, however, that any leave of absence without pay shall not be included unless required by applicable law, any service as a police recruit shall not be included, and any service in which the firefighter or police officer withdrew his/her contributions shall not be included. Active military service shall be included to the extent required by law.

(D) A member who has separated from service as a firefighter or police officer and who has taken a refund of his pension contributions, who is later readmitted to the Fund, shall have the option of purchasing past creditable service.

(1) The readmitted member shall make the election in writing to purchase past creditable service on a form prescribed by the Board within 90 days of readmission, which election shall be legally binding.

(2) The readmitted member who elects to purchase past creditable service shall repay the withdrawn contributions with interest at the actuarially assumed rate of return of the Fund within 90 days of the later of, readmission or receipt of written notification from the Board of the amount due. Interest shall be calculated from the date of withdrawal to the date of repayment at the actuarially assumed rate of return of the Fund.

(3) A member who fails to pay withdrawn contributions with interest as provided in this subsection within 90 days of the later of, readmission or receipt of written notification from the Board of the amount due, shall not receive creditable service for the period of time for which the withdrawn contributions apply.

SECTION 18. No pension provided for herein shall be assignable or subject to garnishment for debt or for other legal process.

SECTION 19. DURATION OF MEMBER'S PENSION. Pensions granted to retired members shall be paid to them for life and shall not be revoked nor in any way diminished except as provided in this Act, and the payments of the member to this fund shall cease upon his retirement and acceptance of a pension.

SECTION 20. The Board of Trustees shall direct that there be included in the pension list, and be subject to the benefits of this Act, all pensions now being paid by the Fund to widows and widowers and children and retired members of the Fire and Police Departments who are now drawing a pension from said fund or may be hereafter entitled thereto, but not to exceed the maximum provided by this Act, and are hereby directed to pay said pensions.

SECTION 21. The Board of Trustees shall have the power to examine into the facts upon which any pension shall have heretofore been granted under any prior or existing law, or shall hereafter be granted under this Act, and ascertain if any pension has been granted or obtained erroneously, fraudulently, or illegally for any reason. Said Board is empowered to purge the pension rolls of any person heretofore granted a pension under prior or existing law, or hereafter granted under this Act, if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any pensioner who has heretofore under any prior or existing law, or who shall hereafter under this Act, be erroneously, improperly or illegally classified.

SECTION 22. Whenever any member in the service of either the Fire or Police Department shall sever his connection with such department, either voluntarily or by lawful discharge, all rights under this Act shall thereupon cease automatically unless at the time of such discharge or voluntary retirement such member has qualified under the terms of this Act for a pension as herein provided. Upon severance prior to qualifying for retirement, a member shall receive a refund of contributions without interest provided, that a member may voluntarily leave his contributions in the Fund for a period of 5 years after terminating employment with the Fire or Police Department, pending the possibility of being rehired by the same department without losing credit for the time he has participated actively as a firefighter or police officer. If the member is not re-employed as a firefighter or police officer, with the same department, within 5 years after terminating such employment, his contributions shall be returned without interest. In the event of the death of a member who is not vested, the member's designated beneficiary shall receive a return of the member's contributions without interest. In the event that the member has not designated a beneficiary, the member's estate shall be deemed the designated beneficiary.

SECTION 23.

(1) Commencing September 30, 1970, the size of the Fund, excluding the 13th check account, determined on a market value basis, shall be compared with the amount that would have been in the Fund, excluding the 13th check account, had the fund, excluding the 13th check account, earned 5 percent, inclusive of realized and unrealized capital gains and losses, compounded annually from October 1, 1969. If on any September 30, the actual fund, excluding the 13th check account, exceeds the 5 percent accumulation, the excess will be known as the Post Retirement Adjustment Account, provided that for this purpose the 5 percent accumulation will not be reduced by any post-retirement benefit adjustment payments.

(2) Commencing January 1, 1980, and on each January 1 thereafter, installments due in the following twelve months to members and beneficiaries covered under this contract shall be increased or decreased by (a) below, but shall not be increased by more than (b) below:

(a) The increase or decrease since the preceding January 1, in the ratio of the current average cost-of-living index to the average cost-of-living index determined as the later of October 1, 1978, and the October 1 immediately preceding the date such installments commenced, rounded off to the nearest whole per centum.

(b) The increase which can be applied and continued for remaining installments, by using the excess, if any, on the preceding September 30 of the Post Retirement Adjustment Account over the value of previous cumulative adjustments if continued for remaining installments, all as determined by the Actuary.

(c) Provided that the effect of such cumulative adjustments shall not be such as to reduce installment payments below the rate at which they would have been paid if no such adjustments had ever been made.

(d) The "average cost-of-living index" shall be ascertained each year; determined as the average of the immediately preceding 24 monthly consumer price index figures, relative to the United States as a whole, known as The Consumer Price Index for All Urban Consumers (CPI-U), (1982-84 = 100 Basis), most recently issued as of such date by the Bureau of Labor Statistics. Should the base point or basis of the monthly Consumer Price Index be revised by the Bureau of Labor Statistics, this term shall mean the published average as adjusted by the Board of Trustees with advice from the Actuary so as to maintain consistency in index figures for purposes of this Plan.

(3) If a member elects to commence receipt of subparagraph 7(A) benefits after 20 years of service immediately upon separation from service as provided in subparagraph 7(D) or to enter into the Deferred Retirement Option Program (DROP) and prior to reaching the age of 46 years, adjustments provided for in this section shall commence on January 1 immediately following the October 1 on or before which the member separates from service as a firefighter or police officer in the fire department or police department, respectively, or enters the Deferred Retirement Option Program (DROP).

(4) Only benefits paid by this Pension Fund shall be subject to cost-of-living adjustments as provided herein.

SECTION 24.

(A) In the event that the provisions of the federal Internal Revenue Code operate to limit the benefit amount that the member or the member's survivors would otherwise be eligible to receive pursuant to the City of Tampa Firefighters and Police Officers Pension Contract, then the member or the member's survivors shall not receive from the City Pension Fund for Firefighters and Police Officers in the City of Tampa retirement benefits in an amount in excess of the limits provided by the federal Internal Revenue Code or in an amount that would cause the City Pension Fund for Firefighters and Police Officers in the City of Tampa to lose its federal income tax exempt status.

(B) In order to maintain the tax exempt status of the City Pension Fund for Firefighters and Police Officers in the City of Tampa, said pension fund shall not be required to pay benefits in excess of the appropriate limits established by Section 415 of the Internal Revenue Code (26 USC Section 415), nor shall said pension fund be required to pay any benefits which would jeopardize its tax exempt status.

(C) Should the benefits otherwise payable pursuant to the City of Tampa Firefighters and Police Officers Pension Contract by the City Pension Fund for Firefighters and Police Officers in the City of Tampa be limited pursuant to Section 415 of the Internal Revenue Code, then the City of Tampa shall provide for payment of those benefits in excess of the limits in Section 415 of the Internal Revenue Code.

(D) Notwithstanding any other provision of this pension contract to the contrary, any provision of this pension contract shall be construed and administered in such manner that this Pension Fund 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 necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this pension contract.

SECTION 25.

(A) To the extent that any provision of this contract is in conflict with sections 112.60 - .67, Florida Statutes, or other provisions of the Florida Statutes made applicable to the Fund, excluding chapters 175 and 185, Florida Statutes, those provisions of the Florida Statutes shall prevail.

(B) To the extent that any provision of this contract would result in the loss of the tax-exempt status of the Fund, such contractual provision shall be null and void.

(C) To the extent that any provision of this contract is not in compliance with the minimum benefits provisions of chapters 175 and 185, Florida Statutes, that apply to the Fund, the non-compliance with which would result in a forfeiture of the right of the fund to participate in the distribution of the premium tax funds established in chapters 175 and 185, Florida Statutes, the City is authorized to amend this contract by local ordinance to cure such non-compliance, only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance, such ordinance is consistent with the terms of a collective bargaining agreement entered into among the City and the certified bargaining agents for firefighters and police officers, the procedures for the adoption of such ordinance are consistent with section 112.63(3), Florida Statutes, and such ordinance is adopted prior to March 31, 2003. Any local ordinance adopted by the City pursuant to this subparagraph shall be incorporated by reference into the pension contract of each firefighter and police officer who is an active or contributing member of the Fund on the date the amendments to such contract provided in such ordinance become effective.

(D) To the extent that any provision of this contract is not in compliance with the minimum standards provisions of chapters 175 and 185, Florida Statutes, that apply to the Fund, the non-compliance with which would result in a forfeiture of the right of the Fund to participate in the distribution of the premium tax funds established in chapters 175 and 185, Florida Statutes, the City is authorized to amend this contract by local ordinance to cure such non-compliance, provided such ordinance is consistent with the terms of a collective bargaining agreement entered into among the City and the certified bargaining agents for firefighters and police officers, and such ordinance is adopted prior to March 31, 2003. Any local ordinance adopted by the City pursuant to this subparagraph shall be incorporated by reference into the pension contract of each firefighter and police officer who is an active or contributing member of the Fund on the date the amendments to such contract provided in such ordinance become effective.

SECTION 26. DEFERRED RETIREMENT OPTION PROGRAM

Notwithstanding any other provisions of this contract, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is an option under which an eligible member may elect to have the member's pension benefits calculated as of a certain date prior to retirement, and accumulate benefits plus the investment return pursuant to this section during the DROP calculation period. Participation in the DROP does not guarantee employment for the DROP calculation period, as defined in this section.

(A) Eligibility- In order to be eligible for the DROP option, the member must meet the following eligibility criteria:

(1) The member must have attained at least 20 years of service but no more than 30 years of service at the time the member files an election under this section. The service must be as a firefighter or police officer in the fire department or the police department, respectively, either in this Pension Fund or Division B of the General Employees Pension Plan, or a

combination thereof. A member is eligible for accumulations pursuant to the DROP for the lesser of 5 years, or the difference between 30 years of service and the member's service as of the effective date of the member's DROP election. However, if a member has attained at least 25 years of service on the date this act becomes a law and elects to participate in the DROP within 90 days after receipt of written notice from the Board of Trustees, the member is eligible for a 5-year DROP calculation period following the date this act becomes a law.

(2) The member must meet all eligibility requirements for pension benefits, other than separation from service as a firefighter or police officer in the fire department or police department, respectively.

(3) Upon electing to participate in the DROP, the member shall submit on forms required by the City and the Board of Trustees:

(a) An irrevocable written election to participate in the DROP, specifying a DROP benefit calculation date. This DROP benefit calculation date is used to determine the DROP calculation period, which commences on the DROP benefit calculation date and ends on the earlier of (i) the last day of DROP eligibility as determined under paragraph (1) or (ii) the member's separation from service or death;

(b) An irrevocable notice of employment termination to take effect upon the expiration of the DROP calculation period; provided that a DROP participant shall not be precluded from voluntarily terminating employment with the City as a firefighter or police officer before the expiration of the DROP calculation period, nor shall the City be precluded from terminating such 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;

(c) A properly completed application for longevity retirement benefits to be calculated pursuant to subparagraph 7(A) or subparagraph 7(D) as of the DROP benefit calculation date; and

(d) Any other information required by the Board of Trustees.

(4) A member may only make one DROP election during the member's lifetime.

(B) Status - For pension purposes only:

(1) During the DROP calculation period, there shall be no pension contribution deductions made from the earnings, wages, salary, or compensation earned by the DROP participant.

(2) Upon entry into the DROP, a DROP participant shall no longer be entitled to disability benefits pursuant to subparagraph 7(B) or subparagraph 7(C).

(3) Death benefits under the DROP.--Upon the death of a DROP participant, the named beneficiary or beneficiaries shall be entitled to receive the benefits accumulated during the DROP calculation period as of the date of death. After the death of such DROP participant, pension benefits shall be paid as required by Section 9, provided however that a surviving spouse who was not married to the member during some period of the member's employment as a firefighter or police officer prior to the date of the member's entry into the DROP shall not be entitled to Section 9 benefits. Eligibility to participate in the DROP terminates upon the death of such DROP participant.

(4) A DROP participant shall not be eligible to be elected as a member of the Board of Trustees.

(5) During DROP participation, a DROP participant shall be entitled to the 13th check benefit pursuant to Section 27.

(C) Benefits under the DROP -

(1) Effective with the DROP benefit calculation date, a DROP participant's monthly pension installments calculated pursuant to Section 7, including creditable service, such participant's average earnings and the effective date of retirement shall be fixed.

(2) The DROP accumulation shall be calculated as follows:

(a) The amount of the 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.

(b) The amount of any cost of living adjustments pursuant to Section 23 during the DROP benefit calculation period.

(c) Interest accumulation as set forth in this section.

(d) The amount of the 13th check pursuant to Section 27.

(3) At the conclusion of the member's DROP benefit calculation period, the Board of Trustees shall distribute the member's benefits, subject to the following provisions:

(a) The Board of Trustees shall receive verification by the City that such DROP participant's employment as a firefighter or police officer with the fire department or police department, respectively, has terminated.

(b) A terminated DROP participant or, if deceased, such participant's named beneficiary or beneficiaries, shall elect on forms provided by the Board of Trustees to receive the DROP benefits in accordance with one of the options provided in subparagraph 26(E)(1). Once a DROP participant commences distribution under a payment method (or receives a lump sum), no further interest shall be payable to the DROP participant. For a DROP participant or beneficiary who fails to elect a method of payment within 60 days of termination of DROP participation, the Board of Trustees will pay a lump sum as provided hereafter.

(D) **Interest and Administrative Costs** - Interest shall accumulate annually at the rate to reflect 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 shall be determined by the Board of Trustees.

(E) **Payment**

(1) Upon termination of employment with the City as a firefighter or police officer in the fire department or police department, respectively, the accumulated DROP benefits at the option of the terminated DROP participant, or if deceased, such participant's designated beneficiary or beneficiaries, shall 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 by rules and regulations adopted by the Board of Trustees, provided that such distribution may be adjusted by the Board of Trustees to maintain Internal Revenue Code qualification of the Fund.

(2) If a DROP participant dies during the DROP calculation period, or on or before the DROP participant's full DROP accumulation is distributed, any remaining DROP accumulation shall be distributed to the DROP participant's designated beneficiary or beneficiaries, or, if there is no surviving designated beneficiary, to the participant's spouse, or if there is no surviving designated beneficiary and no surviving spouse, to the participant's estate. Any such payment shall be made in a lump sum payment, unless the participant had already commenced benefit payment of their DROP accumulation in an optional plan. In such an event, benefits shall continue to be paid pursuant to the optional benefit form selected.

(3) The form of distribution elected by a DROP participant or surviving beneficiary must comply with the applicable requirements of the Internal Revenue Code.

(4) A DROP participant who is involuntarily discharged who seeks review of such discharge shall 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 provided in subparagraph 26(A)(1), whichever is first.

(5) The accumulated benefits of any DROP participant, including any interest thereon, shall not be subject to assignment, garnishment, execution, attachment, or to any legal process whatsoever, except income deduction orders as provided in section 61.1301, Florida Statutes, and federal income tax levies.

(6) Upon termination from employment with the City as a firefighter or police officer in the fire department or police department, respectively, the monthly pension installments pursuant to Section 7 and the cost of living adjustments pursuant to Section 23, shall be paid to the member, and upon death of the member, monthly pension installments shall be paid pursuant to Section 9 with cost of living adjustments pursuant to Section 23.

(F) **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 rule 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.

(G) **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 DROP. The Board of Trustees shall 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. 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 necessary to accomplish the purpose of this section as is necessary to retain tax qualification, which rule shall have the force of law and shall be considered part of this pension contract.

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

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

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

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

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

(B) **13th Check Account**

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

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

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

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

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

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

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

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

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

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

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

SECTION 28. ELECTION TO PURCHASE PAST CREDITABLE SERVICE BY CERTAIN FIREFIGHTERS AND POLICE OFFICERS.

(A) Each firefighter and police officer who, on October 15, 1992, was a member in Division B of the General Employees' Pension Plan for the City of Tampa, who became a member of this Fund for service occurring on and after October 16, 1992, and who is a member of this Fund on or after June 1, 2002, may elect to purchase creditable service under this Pension Contract for service as a firefighter or police officer with the City of Tampa prior to October 16, 1992, if said employee complies with the following:

(1) Notify the City of Tampa and the Board of Trustees of this Fund, in writing, at any time between July 1, 2002, and December 31, 2002, of his or her desire to purchase creditable service for all or any portion of such past service and the time period of such service to be purchased;

(2) Upon electing to purchase creditable service for such past service, submit on a form required by the City an irrevocable waiver of any pension benefits under the General Employees' Pension Plan for the City of Tampa, which waiver shall apply only to the time period of such service to be purchased; and

(3) By September 30, 2003, pay into the Pension Fund a sum of money equal to the aggregate employee contributions, plus compound interest thereon at a rate as determined by the Board, which the employee would have paid into the Fund pursuant to Section 2 (D) of this Contract, had the employee participated in the Fund during the period of such prior service that said employee has elected to purchase.

(B) For each firefighter and police officer electing to purchase creditable service for past service as provided in this section, the City shall pay into the Pension Fund, by September 30, 2003, a sum of money equal to the City contributions, plus compound interest thereon at the rate determined by the Board pursuant to Section 28 (A) (3), which the City would have paid into the Fund for such firefighters and police officers pursuant to Section 2(B) and (C) of this Contract, had such firefighters and police officers participated in the Fund during the period of such prior service that such firefighters and police officers have elected to purchase.

(C) Benefits for creditable service purchased by firefighters and police officers pursuant to this section shall be calculated in the same manner as are such firefighters' and police officers' benefits for creditable service commencing on October 16, 1992, provided that there shall be no reduction in benefits for such creditable service purchased as otherwise required pursuant to Section 7 (A), (B), or (C), Section 8 (A), or Section 9 (A) or (C) of this Contract.

(D) 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. 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.

WHEREAS, it is beneficial to the said City to have its employees protected by the terms of said fund and benefits and the said employee is desirous of participating in said fund and benefits, it is thereupon,

UNDERSTOOD AND AGREED by and between the parties that the party of the second part does hereby allot, out of his salary, wages or compensation, paid to him by the said City, the required percentage of his earnings and does hereby authorize and direct the disbursing officer or officers of said City to retain out of said wages, salary or compensation said percentage in compliance with the terms of the aforesaid Act of the Legislature, and to continue to make said allotment and authorize said deduction throughout the entire time of his employment or reemployment, or until such time as he shall be entitled to receive the pension allowance or benefit provided by the Fund created in the aforesaid Act.

IT IS FURTHER UNDERSTOOD AND AGREED by and between the parties that the said Board will accept said allotment or deduction from the salary, wages or compensation of said employee aforesaid, and when, under the terms of the aforesaid Act, said employee or other beneficiary of said employee shall be entitled, under the terms of the aforesaid provisions to receive the benefits from said Fund therein created, will pay said sum or sums from said Fund and all other benefits so authorized to said employee or his other beneficiaries, in accordance with said terms without diminution or deduction.

IT IS FURTHER UNDERSTOOD AND AGREED that this contract shall remain in force without change, modification or amendment, until all the purposes now intended to be fulfilled shall have been fully performed, except that payment or other benefits to the party of the second part or such party's beneficiaries may be increased but not diminished except as provided in Section 23.

IT IS FURTHER UNDERSTOOD AND AGREED that employees shall not lose any rights under the terms of this contract by reason of the refusal of the City at any time during the terms hereof to make allotment or deduction from such employees' earnings.

IT IS FURTHER UNDERSTOOD AND AGREED that it is the intention of the parties hereto to create vested rights in the respective parties not to be hereinafter impaired for any cause whatsoever.

IT IS FURTHER UNDERSTOOD AND AGREED that the terms of the provisions hereinbefore set forth are declared to be a part of this contract and this contract is to be construed with reference thereto.

IT IS FURTHER UNDERSTOOD AND AGREED that this contract supersedes any and all contracts heretofore entered into by the parties hereto upon or relating to the subject matter hereof and that any and all of such contracts are supplemental by replacement hereby as of the day and year first above written.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed, with the seal of said City, by its duly authorized officers, and the said party of the second part has hereunto set his hand and seal the day and year first above written.

CITY OF TAMPA

Attested by:

BY: _____
Mayor

_____
City Clerk

* * * * *

_____
Employee Signature

_____
Employee Name --Printed--

_____
Date Signed by Employee

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

Witness as to Employee:

_____
Witness Signature

_____
Witness Name --Printed--

_____
Date Witnessed

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CITY OF TAMPA
FIREFIGHTERS AND POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN CHAPTER 2002-369, LAWS OF FLORIDA)

Name Printed:_____ Fire ___ or Police ___ ID #:_____

This agreement made and entered into this _____ day of _____, 2002, [print today's date, the date you are signing this contract] between the CITY OF TAMPA, a municipal corporation of the State of Florida hereinafter referred to as the City, party of the first part, and _____ [print your name here] hereinafter described as member, party of the second part, supplementing and amending the Pension Contract(s) previously entered into between the parties.

WITNESSETH:

THAT WHEREAS, the City is authorized to enter into a supplemental pension contract with each and every firefighter or police officer who is an active or contributing member of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on or after 6/1/2002, under and by virtue of Chapter 2002-___, Laws of Florida, amending Section 7(A), (B), and (C), Section 8(A), and Section 9(A) and (C), and creating Section 28 of the City of Tampa Firefighters and Police Officers Pension Contract to read:

SECTION 7. BENEFITS, PENSIONS TO MEMBERS.

The Board shall upon its application retire:

(A) Any member of the Fund having an aggregate of 10 years of service as defined in Section 17 in said departments, and having reached the age of 46 years, who then shall receive in monthly installments a pension equal to 25 percent of the member's average earnings for the three (3) highest years within the last 10 years of service with a minimum pension of $100 per month. For each additional year of such service after 10 years, a member shall receive 2.5 percent of average earnings, not to exceed a total pension of 100 percent of said average earnings. After 10 years of service as defined in Section 17, this pension right shall be a vested right with the payment thereof to begin upon the employee's separation from the service or the employee's reaching the age of 46 years, whichever occurs later, so that an employee having 10 or more years of such service who resigns, retires, or is otherwise separated from the service prior to reaching the age of 46 years may elect to allow his contributions to remain in the Pension Fund and upon reaching the age of 46 years shall be entitled to commence receiving a pension based upon his service as herein provided, and should such employee die before reaching 46 years of age, then at the time that decedent would have reached 46 years of age the widow or widower shall receive such benefit as the widow or widower would have received under subparagraph 9(C) if the employee had died while receiving a pension. Provided however, any member of the Pension Fund who prior to October 16, 1992, was a participant of Division B of the General Employees Pension Plan as established by chapter 81-497, Laws of Florida, as amended, shall receive benefits from this Pension Fund at the rate of 2.5 percent of average earnings for each year of service in this Pension Fund, provided however, the 2.5 percent accrual shall not apply to any service while the member was a participant of Division B of the General Employees Pension Plan; provided, further, that upon reaching social security normal retirement age, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund. The effect of such reduction shall be that the sum of the benefit paid herein and said social security

benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) Any member who in the service has received or shall receive within or without the city any injuries, disease or disability, which injury, disease or disability now permanently incapacitates him physically or mentally from regular and continuous duty as a firefighter or police officer, then he shall receive in equal monthly installments an amount equal to 65% of monthly salary in effect at date of disability retirement with a minimum of $100.00 per month, plus 1/12 of any other earnings received within one year prior to date of disability retirement. Any injury, disease or disability received prior to becoming a member of this Pension Fund, which injury, disease or disability later permanently incapacitates the member, physically or mentally from regular and continuous duty as a firefighter or police officer, shall not qualify for benefits herein. For any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28 (C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(C) Any member of the fund who has completed ten (10) years of creditable service and becomes permanently incapacitated, physically or mentally, from regular and continuous service as a firefighter or police officer as a result of any injury, disease or disability which is not incurred in the service of the City, shall receive in equal monthly installments an amount equal to the greater of (1) 2% of his average salary (as above computed) for each year of service with a minimum of 25% and a maximum of 50% of average salary or (2) the accrued benefit under Section 7(A) based upon years of service and average salary determined as of the date of disability. Any injury, disease or disability received prior to becoming a member of this Fund, which injury, disease or disability later permanently incapacitates the member, physically or mentally from regular and continuous duty as a firefighter or police officer, shall not qualify for benefits herein. For any member of this Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age, or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

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

(A) To the widow or widower in equal monthly installments an amount equal to fifty per centum (50%) of the member's final year's earnings, computed from date of death, until death. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

SECTION 9. To the widow or widower (until death or remarriage) and child or children (under the age of eighteen (18) years), until death or marriage before reaching the age of eighteen (18) years, of any member who dies from causes not attributed to his active duties in the departments, provided, however, that such member shall have been a member of such department for ten (10) years prior to the date of his death, the Trustees shall authorize and direct payment in equal monthly installments as follows:

(A) To the widow or widower in equal monthly installments sixty-five per centum (65%) of the service retirement pension earned by the member at date of death. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(C) The widow or widower of a member who dies while receiving a retirement pension shall receive sixty-five per centum (65%) of the pension which the member was receiving; provided however, that no pension shall be allowed to any widow or widower unless she or he was married to the member prior to the date of retirement of the member. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a

firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

SECTION 28. ELECTION TO PURCHASE PAST CREDITABLE SERVICE BY CERTAIN FIREFIGHTERS AND POLICE OFFICERS.

(A) Each firefighter and police officer who, on October 15, 1992, was a member in Division B of the General Employees' Pension Plan for the City of Tampa, who became a member of this Fund for service occurring on and after October 16, 1992, and who is a member of this Fund on or after June 1, 2002, may elect to purchase creditable service under this Pension Contract for service as a firefighter or police officer with the City of Tampa prior to October 16, 1992, if said employee complies with the following:

(1) Notify the City of Tampa and the Board of Trustees of this Fund, in writing, at any time between July 1, 2002, and December 31, 2002, of his or her desire to purchase creditable service for all or any portion of such past service and the time period of such service to be purchased;

(2) Upon electing to purchase creditable service for such past service, submit on a form required by the City an irrevocable waiver of any pension benefits under the General Employees' Pension Plan for the City of Tampa, which waiver shall apply only to the time period of such service to be purchased; and

(3) By September 30, 2003, pay into the Pension Fund a sum of money equal to the aggregate employee contributions, plus compound interest thereon at a rate as determined by the Board, which the employee would have paid into the Fund pursuant to Section 2 (D) of this Contract, had the employee participated in the Fund during the period of such prior service that said employee has elected to purchase.

(B) For each firefighter and police officer electing to purchase creditable service for past service as provided in this section, the City shall pay into the Pension Fund, by September 30, 2003, a sum of money equal to the City contributions, plus compound interest thereon at the rate determined by the Board pursuant to Section 28 (A) (3), which the City would have paid into the Fund for such firefighters and police officers pursuant to Section 2(B) and (C) of this Contract, had such firefighters and police officers participated in the Fund during the period of such prior service that such firefighters and police officers have elected to purchase.

(C) Benefits for creditable service purchased by firefighters and police officers pursuant to this section shall be calculated in the same manner as are such firefighters' and police officers' benefits for creditable service commencing on October 16, 1992, provided that there shall be no reduction in benefits for such creditable service purchased as otherwise required pursuant to Section 7 (A), (B), or (C), Section 8 (A), or Section 9 (A) or (C) of this Contract.

(D) 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. 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.

IT IS UNDERSTOOD AND AGREED that the terms and provisions hereinbefore set forth are declared to be part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of the City by its duly authorized officers and the party of the second part has hereunto set his/her hand and seal the day and year first above written.

CITY OF TAMPA

Attested by:

_____
City Clerk

BY: _____
Mayor

* * * * *

_____
Member

Witnesses as to Member:

_____

_____

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CITY OF TAMPA
FIREFIGHTERS AND POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN CHAPTER 2001-288, LAWS OF FLORIDA)

Name Printed:_____ Fire ___ or Police ___ ID #:_____

This agreement made and entered into this _____ day of _____, 2001, [print today's date, the date you are signing this contract] between the CITY OF TAMPA, a municipal corporation of the State of Florida hereinafter referred to as the City, party of the first part, and _____ [print your name here] hereinafter described as member, party of the second part, supplementing and amending the Pension Contract(s) previously entered into between the parties.

W I T N E S S E T H:

THAT WHEREAS, the City is authorized to enter into a supplemental pension 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 6/15/2001 under and by virtue of Chapter 2001-288, Laws of Florida, amending Section 2(D), Section 6(3), and Section 27 of the City of Tampa Firefighters and Police Officers Pension Contract to read as follows:

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:

Earnings in Twelve-Month Period Commencing October 1	Employee Contribution Rate
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 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 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 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 pursuant to the following terms and conditions:

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

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

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

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

(B) 13th Check Account.--

(1) There is hereby created a 13th check account within the Fund, which shall consist of those employees' contributions set forth in subparagraph 27(B)(2) in excess of those contributions otherwise required by Section 2 for the normal annual cost of benefits, other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than benefits arising from the 13th Check Program, plus any interest earnings thereon up to and including September 30, 2001. Effective for earnings paid on the first pay date after October 1, 2001, employee contributions to the 13th Check

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

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

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

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

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

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

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

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

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

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

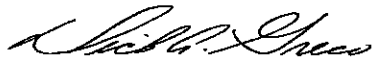
(E) Administration of Program.-- The Board of Trustees shall make such rules as are necessary for the effective and efficient administration of this section, provided that such rules are not inconsistent with the terms of any collective bargaining agreement entered into by the City and the certified bargaining agents for firefighters and police officers concerning the 13th Check Program. Notwithstanding any other provision of this section to the contrary, any provision of this section shall be construed and administered in such manner that such program will qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United States, and the Board of Trustees may adopt any rule to accomplish the purpose of this section as is

necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this pension contract.

IT IS UNDERSTOOD AND AGREED that the terms and provisions hereinbefore set forth are declared to be part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of the City by its duly authorized officers and the party of the second part has hereunto set his/her hand and seal the day and year first above written.

CITY OF TAMPA



Mayor

ATTESTED BY:

City Clerk

* * * * *

Member

WITNESSES AS TO MEMBER:

F:\share\contracts\Supplemental Contract 2001-288

CITY OF TAMPA
FIREFIGHTERS AND POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN CHAPTER 2000-485, LAWS OF FLORIDA)

This agreement made and entered into this _____ day of _____, 2000, between the CITY OF TAMPA, a municipal corporation of the State of Florida hereinafter referred to as the City, party of the first part, and _____ hereinafter described as member, party of the second part, supplementing and amending the Pension Contract(s) previously entered into between the parties.

Name Printed:_____ Fire ___ or Police ___ F&P #:_____

WITNESSETH:

THAT WHEREAS, the City is authorized to enter into a supplemental pension 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 6/7/2000 under and by virtue of Chapter 2000-485, Laws of Florida, Special Acts of 2000, creating Section 25 for members who became an active or contributing member prior to 10/16/92 and amending Section 25 for members who became an active or contributing member on or after 10/16/92, the City of Tampa Firefighters and Police Officers Pension Contract is amended as follows:

SECTION 25.

(A) To the extent that any provision of this contract is in conflict with sections 112.60 - .67, Florida Statutes, or other provisions of the Florida Statutes made applicable to the Fund, excluding chapters 175 and 185, Florida Statutes, those provisions of the Florida Statutes shall prevail.

(B) To the extent that any provision of this contract would result in the loss of the tax-exempt status of the Fund, such contractual provision shall be null and void.

(C) To the extent that any provision of this contract is not in compliance with the minimum benefits provisions of chapters 175 and 185, Florida Statutes, that apply to the Fund, the non-compliance with which would result in a forfeiture of the right of the Fund to participate in the distribution of the premium tax funds established in chapters 175 and 185, Florida Statutes, the City is authorized to amend this contract by local ordinance to cure such non-compliance, only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance, such ordinance is consistent with the terms of a collective bargaining agreement entered into among the City and the certified bargaining agents for firefighters and police officers, the procedures for the adoption of such ordinance are consistent with section 112.63(3), Florida Statutes, and such ordinance is adopted prior to March 31, 2003. Any local ordinance adopted by the City pursuant to this subparagraph shall be incorporated by reference into the pension contract of each firefighter and police officer who is an active or contributing member of the Fund on the date the amendments to such contract provided in such ordinance become effective.

(D) To the extent that any provision of this contract is not in compliance with the minimum standards provisions of chapters 175 and 185, Florida Statutes, that apply to the Fund, the non-compliance with which would result in a forfeiture of the right of the Fund to participate in the distribution of the premium tax funds established in chapters 175 and 185, Florida Statutes, the City is authorized to amend this contract by local ordinance to cure such non-compliance, provided such ordinance is consistent with the terms of a collective bargaining agreement entered into among the City and the certified bargaining agents for firefighters and police officers, and such ordinance is adopted prior to March 31, 2003. Any local ordinance adopted by the City pursuant to this subparagraph shall be incorporated by reference into the pension contract of each firefighter and police officer who is an active or contributing member of the Fund on the date the amendments to such contract provided in such ordinance become effective.

IT IS UNDERSTOOD AND AGREED that the terms and provisions herinbefore set forth are declared to be part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of the City by its duly authorized officers and the party of the second part has hereunto set his/her hand and seal the day and year first above written.

CITY OF TAMPA

Mayor

ATTESTED BY:

City Clerk

* * * * *

Member

WITNESSES AS TO MEMBER:

F:\share\contracts\Supplemental Contract 2000-485

CITY OF TAMPA
FIREFIGHTERS & POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN CHAPTER 98-515, LAWS OF FLORIDA)

THIS AGREEMENT made and entered into this _____ day of _____, 1998, between the CITY OF TAMPA, a Municipal Corporation of the State of Florida hereinafter referred to as the City, party of the first part, and _____ hereinafter described as member, party of the second part, supplementing and amending the Pension Contract(s) previously entered into between the parties.

WITNESSETH:

THAT WHEREAS, the said City is authorized to enter into a supplemental pension 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 _____, 1998 under and by virtue of Chapter 98-515, Laws of Florida , Special Acts of 1998, amending subparagraphs 2(B)(1) and (4); amending Section 2(D); creating subparagraph 2(K); amending subparagraph 7(A); amending subparagraph 7(D); amending subsection 23(1); amending subsection 23(3); amending Section 24; creating Section 26 entitled Deferred Retirement Option Program; and creating Section 27 entitled 13th Check Program of the City of Tampa Firefighters and Police Officers Pension Contract as amended as follows:

SECTION 2.

(B)(1) The normal annual cost of the benefits other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than the 13th check benefits pursuant to Section 27, provided for in this contract; and

(B)(4) Provided, however, that in no case shall the contributions by the City in any year, and exclusive of income from other sources, be less than 133, or 134 percent if paid quarterly, of the total sum contributed by employees as provided in (D) below, excluding contributions for the 13th check benefit; it being expressly understood that when the requirements for continued actuarial soundness of the plan are determined to require less contributions than would result hereby, the contributions from the City and employees will be proportionately reduced to rates which will reasonably generate such reduced amount.

(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:

Earnings in Twelve-Month Period Commencing October 1	Employee Contribution Rate
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.

(K) Notwithstanding any other provisions of this section, the City and the employees shall make additional contributions to the 13th Check Benefit Program to the extent set forth in Section 27.

SECTION 7. BENEFITS, PENSIONS TO MEMBERS-COMPULSORY. The Board shall upon its application retire:

(A) Any member of the Fund having an aggregate of 10 years of service as defined in Section 17 in said departments, and having reached the age of 46 years, who then shall receive in monthly installments a pension equal to 25 percent of the member's average earnings for the three (3) highest years within the last 10 years of service with a minimum pension of $100 per month. For each additional year of such service after 10 years, a member shall receive 2.5 percent of average earnings, not to exceed a total pension of 100 percent of said average earnings. After 10 years of service as defined in Section 17, this pension right shall be a vested right with the payment thereof to begin upon the employee's separation from the service or the employee's reaching the age of 46 years, whichever occurs later, so that an employee having 10 or more years of such service

who resigns, retires, or is otherwise separated from the service prior to reaching the age of 46 years may elect to allow his contributions to remain in the Pension Fund and upon reaching the age of 46 years shall be entitled to commence receiving a pension based upon his service as herein provided, and should such employee die before reaching 46 years of age, then at the time that decedent would have reached 46 years of age the widow or widower shall receive such benefit as the widow or widower would have received under subparagraph 9(C) if the employee had died while receiving a pension. Provided however, any member of the Pension Fund who prior to October 16, 1992, was a participant of Division B of the General Employees Pension Plan as established by chapter 81-497, Laws of Florida, as amended, shall receive benefits from this Pension Fund at the rate of 2.5 percent of average earnings for each year of service in this Pension Fund, provided however, the 2.5 percent accrual shall not apply to any service while the member was a participant of Division B of the General Employees Pension Plan. Upon reaching social security normal retirement age, the benefit paid herein shall be reduced to 60 percent of the initial benefit amount.

(D) Notwithstanding the foregoing, any member of this Pension Fund having an aggregate of 20 years of service as a firefighter or police officer in said departments either in this Pension Fund or Division B of the General Employees Pension Plan, or a combination thereof, may elect to enter into the Deferred Retirement Option Program (DROP), or, if the member separates from the service as a firefighter or police officer, may elect to commence immediate receipt of benefits regardless of age.

SECTION 23.

(1) Commencing September 30, 1970, the size of the Fund, excluding the 13th check account, determined on a market value basis, shall be compared with the amount that would have been in the Fund, excluding the 13th check account, had the fund, excluding the 13th check account, earned 5 percent, inclusive of realized and unrealized capital gains and losses, compounded annually from October 1, 1969. If on any September 30, the actual fund, excluding the 13th check account, exceeds the 5 percent accumulation, the excess will be known as the Post Retirement Adjustment Account, provided that for this purpose the 5 percent accumulation will not be reduced by any post-retirement benefit adjustment payments.

(3) If a member elects to commence receipt of subparagraph 7(A) benefits after 20 years of service immediately upon separation from service as provided in subparagraph 7(D) or to enter into the Deferred Retirement Option Program (DROP) and prior to reaching the age of 46 years, adjustments provided for in this section shall commence on January 1 immediately following the October 1 on or before which the member separates from service as a firefighter or police officer in the fire department or police department, respectively, or enters the Deferred Retirement Option Program (DROP).

SECTION 24.

(A) In the event that the provisions of the federal Internal Revenue Code operate to limit the benefit amount that the member or the member's survivors would otherwise be eligible to receive pursuant to the City of Tampa Firefighters and Police Officers Pension Contract, then the member or the member's survivors shall not receive from the City Pension Fund for Firefighters and Police Officers in the City of Tampa retirement benefits in an amount in excess of the limits provided by the federal Internal Revenue Code or in an amount that would cause the City Pension Fund for Firefighters and Police Officers in the City of Tampa to lose its federal income tax exempt status.

(B) In order to maintain the tax exempt status of the City Pension Fund for Firefighters and Police Officers in the City of Tampa, said pension fund shall not be required to pay benefits in excess of the appropriate limits established by Section 415 of the Internal Revenue Code (26 USC Section 415), nor shall said pension fund be required to pay any benefits which would jeopardize its tax exempt status.

(C) Should the benefits otherwise payable pursuant to the City of Tampa Firefighters and Police Officers Pension Contract by the City Pension Fund for Firefighters and Police Officers in the City of Tampa be limited pursuant to Section 415 of the Internal Revenue Code, then the City of Tampa shall provide for payment of those benefits in excess of the limits in Section 415 of the Internal Revenue Code.

(D) Notwithstanding any other provision of this pension contract to the contrary, any provision of this pension contract shall be construed and administered in such manner that this Pension Fund 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 necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this pension contract.

SECTION 26. DEFERRED RETIREMENT OPTION PROGRAM.- -

Notwithstanding any other provisions of this contract, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is an option under which an eligible member may elect to have the member's pension benefits calculated as of a certain date prior to retirement, and accumulate benefits plus the investment return pursuant to this section during the DROP calculation period. Participation in the DROP does not guarantee employment for the DROP calculation period, as defined in this section.

(A) Eligibility.-- In order to be eligible for the DROP option, the member must meet the following eligibility criteria:

(1) The member must have attained at least 20 years of service but no more than 30 years of service at the time the member files an election under this section. The service must be as a firefighter or police officer in the fire department or the police department, respectively, either in this Pension Fund or Division B of the General Employees Pension Plan, or a combination thereof. A member is eligible for accumulations pursuant to the DROP for the lesser of 5 years, or the difference between 30 years of service and the member's service as of the effective date of the member's DROP election. However, if a member has attained at least 25 years of service on the date this act becomes a law and elects to participate in the DROP within

90 days after receipt of written notice from the Board of Trustees, the member is eligible for a 5-year DROP calculation period following the date this act becomes a law.

(2) The member must meet all eligibility requirements for pension benefits, other than separation from service as a firefighter or police officer in the fire department or police department, respectively.

(3) Upon electing to participate in the DROP, the member shall submit on forms required by the City and the Board of Trustees:

(a) An irrevocable written election to participate in the DROP, specifying a DROP benefit calculation date. This DROP benefit calculation date is used to determine the DROP calculation period, which commences on the DROP benefit calculation date and ends on the earlier of (i) the last day of DROP eligibility as determined under paragraph (1) or (ii) the member's separation from service or death;

(b) An irrevocable notice of employment termination to take effect upon the expiration of the DROP calculation period; provided that a DROP participant shall not be precluded from voluntarily terminating employment with the City as a firefighter or police officer before the expiration of the DROP calculation period, nor shall the City be precluded from terminating such 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;

(c) A properly completed application for longevity retirement benefits to be calculated pursuant to subparagraph 7(A) or subparagraph 7(D) as of the DROP benefit calculation date; and

(d) Any other information required by the Board of Trustees.

(4) A member may only make one DROP election during the member's lifetime.

(B) Status.-- For pension purposes only:

(1) During the DROP calculation period, there shall be no pension contribution deductions made from the earnings, wages, salary, or compensation earned by the DROP participant.

(2) Upon entry into the DROP, a DROP participant shall no longer be entitled to disability benefits pursuant to subparagraph 7(B) or subparagraph 7(C).

(3) Death benefits under the DROP.--Upon the death of a DROP participant, the named beneficiary or beneficiaries shall be entitled to receive the benefits accumulated during the DROP calculation period as of the date of death. After the death of such DROP participant, pension benefits shall be paid as required by Section 9, provided however that a surviving spouse who was not married to the member during some period of the member's employment as a firefighter or police officer prior to the date of the member's entry into the DROP shall not be entitled to Section 9 benefits. Eligibility to participate in the DROP terminates upon the death of such DROP participant.

(4) A DROP participant shall not be eligible to be elected as a member of the Board of Trustees.

(5) During DROP participation, a DROP participant shall be entitled to the 13th check benefit pursuant to Section 27.

(C) Benefits under the DROP.--

(1) Effective with the DROP benefit calculation date, a DROP participant's monthly pension installments calculated pursuant to Section 7, including creditable service, such participant's average earnings and the effective date of retirement shall be fixed.

(2) The DROP accumulation shall be calculated as follows:

(a) The amount of the 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.

(b) The amount of any cost of living adjustments pursuant to Section 23 during the DROP benefit calculation period.

(c) Interest accumulation as set forth in this section.

(d) The amount of the 13th check pursuant to Section 27.

(3) At the conclusion of the member's DROP benefit calculation period, the Board of Trustees shall distribute the member's benefits, subject to the following provisions:

(a) The Board of Trustees shall receive verification by the City that such DROP participant's employment as a firefighter or police officer with the fire department or police department, respectively, has terminated.

(b) A terminated DROP participant or, if deceased, such participant's named beneficiary or beneficiaries, shall elect on forms provided by the Board of Trustees to receive the DROP benefits in accordance with one of the options provided in subparagraph 26(E)(1). Once a DROP participant commences distribution under a payment method (or receives a lump sum), no further interest shall be payable to the DROP participant. For a DROP participant or beneficiary who fails to elect a method of payment within 60 days of termination of DROP participation, the Board of Trustees will pay a lump sum as provided hereafter.

(D) Interest and Administrative Costs.-- Interest shall accumulate annually at the rate to reflect 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 shall be determined by the Board of Trustees.

(E) Payment.--

(1) Upon termination of employment with the City as a firefighter or police officer in the fire department or police department, respectively, the accumulated DROP benefits at the option of the terminated DROP participant, or if deceased, such participant's designated beneficiary or beneficiaries, shall 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 by rules and regulations

adopted by the Board of Trustees, provided that such distribution may be adjusted by the Board of Trustees to maintain Internal Revenue Code qualification of the Fund.

(2) If a DROP participant dies during the DROP calculation period, or on or before the DROP participant's full DROP accumulation is distributed, any remaining DROP accumulation shall be distributed to the DROP participant's designated beneficiary or beneficiaries, or, if there is no surviving designated beneficiary, to the participant's spouse, or if there is no surviving designated beneficiary and no surviving spouse, to the participant's estate. Any such payment shall be made in a lump sum payment, unless the participant had already commenced benefit payment of their DROP accumulation in an optional plan. In such an event, benefits shall continue to be paid pursuant to the optional benefit form selected.

(3) The form of distribution elected by a DROP participant or surviving beneficiary must comply with the applicable requirements of the Internal Revenue Code.

(4) A DROP participant who is involuntarily discharged who seeks review of such discharge shall 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 provided in subparagraph 26(A)(1), whichever is first.

(5) The accumulated benefits of any DROP participant, including any interest thereon, shall not be subject to assignment, garnishment, execution, attachment, or to any legal process whatsoever, except income deduction orders as provided in section 61.1301, Florida Statutes, and federal income tax levies.

(6) Upon termination from employment with the City as a firefighter or police officer in the fire department or police department, respectively, the monthly pension installments pursuant to Section 7 and the cost of living adjustments pursuant to Section 23, shall be paid to the member, and upon death of the member, monthly pension installments shall be paid pursuant to Section 9 with cost of living adjustments pursuant to Section 23.

(F) 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 rule 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.

(G) 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 DROP. The Board of Trustees shall 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. 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 necessary to accomplish the purpose of this section as is necessary to retain tax qualification, which rule shall have the force of law and shall be considered part of this pension contract.

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 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 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 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 January in which distributions are to be made; and

(3) All qualifying surviving spouses, who on the October 1 immediately preceding the 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.

(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.

(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 in the following 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 December 15, 1998, the amount of the 13th check, 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.

IT IS UNDERSTOOD AND AGREED that the terms and provisions hereinbefore set forth are declared to be part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of said City by its duly authorized officers and the said party of the second part has hereunto set his hand and seal the day and year first above written.

CITY OF TAMPA

BY:_____
Mayor

ATTESTED BY:

_____
City Clerk

* * * *

_____
Member

WITNESSES AS TO MEMBER:

_____

_____

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CITY OF TAMPA
FIREFIGHTERS & POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN ORDINANCE NO. 93-163
AND CHAPTER 94 - 463, LAWS OF FLORIDA)

THIS AGREEMENT made and entered into this ____ day of _____, 199__, between the CITY OF TAMPA, a Municipal Corporation of the State of Florida hereinafter referred to as the City, party of the first part, and _____, hereinafter described as member, party of the second part, supplementing and amending the Pension Contract between the parties made and entered into on the ____ day of _____, 199__.

W I T N E S S E T H:

THAT WHEREAS, the said City is authorized to enter into a supplemental pension 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 October 16, 1992, under and by virtue of Ordinance No. 93-163 and Chapter 94 -_____, Laws of Florida, Special Acts of 1994, amending subsection 7(A), adding subparagraph 7(D) and adding subsection 23(3) of the City of Tampa Firefighters and Police Officers Pension Contract as follows:

Subsection 7(A) of the City of Tampa Firefighters and Police Officers Pension Contract is hereby amended by substituting the following in lieu thereof:

"(A) Any member of the Fund having an aggregate of ten (10) years of actual service in said departments, and having reached the age of forty-six (46) years, who then shall receive in monthly installments a pension equal to twenty-five per centum (25%) of the member's average earnings for the three (3) highest years within the last ten (10) years of service with a minimum pension of One Hundred Dollars ($100) per month. For each additional year of such actual service after ten (10) years up to and including twenty-six (26) years, a member shall receive two and one-half per centum (2 1/2%) of average earnings. For each additional year of such actual service after twenty-six (26) years, a member shall receive two per centum (2%) of average earnings not to exceed a total pension of one hundred per centum (100%) of said average earnings. After ten (10) years of actual service, this pension right shall be a vested right with the payment thereof to begin upon the employee's separation from the service or the employee's reaching the age of forty-six (46) years, whichever shall later occur, so that an employee having ten (10) or more years actual service who resigns, retires, or is otherwise separated from the service prior to reaching the age of forty-six (46)

years may elect to allow his contributions to remain in the pension fund and upon reaching the age of forty-six (46) years shall be entitled to commence receiving a pension based upon his creditable service as herein provided, and should such employee die before reaching forty-six (46) years of age, then at the time the decedent would have reached forty-six (46) years of age the widow or widower shall receive such benefit as the widow or widower would have received under Subsection 9(C) if the employee had died while receiving a pension."

Section 7 of the City of Tampa Firefighters and Police Officers Pension Contract is hereby amended by adding the following new subparagraph (D) immediately after subparagraph (C) thereof:

"(D) Notwithstanding the foregoing, any member of this Pension Fund having an aggregate of 20 years of actual service in said departments, who separates from the service as a firefighter or police officer, may elect to commence immediate receipt of benefits regardless of age; provided, however, that the benefit otherwise payable pursuant to subparagraph 7(A) shall be reduced by 0.48 percent for each month prior to the member reaching the age of 46 years. To the extent that this subparagraph would result in a forfeiture of the right of the Pension Fund to participate in the distribution of tax funds established in chapters 175 and 185, Florida Statutes, this subparagraph shall be null and void.

Section 23 of the City of Tampa Firefighters and Police Officers Pension Contract is hereby amended by adding the following new subsection 23(3) immediately after subsection 23(2) thereof:

"(3) If a member elects to commence receipt of section 7(A) benefits immediately upon separation from service and prior to reaching the age of 46 years, adjustments provided for in this section shall not commence until the January 1 immediately following the October 1 on or before which the member attains 46 years of age, and provided further that such cost-of-living adjustments shall be paid on the actuarially reduced benefits calculated pursuant to subparagraph 7(D).

* * * * * *

IT IS UNDERSTOOD AND AGREED that the terms and provisions hereinbefore set forth are declared to be part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of said City by its duly authorized officers and the said party of the second part has hereunto set his hand and

seal the day and year first above written.

CITY OF TAMPA

Attested by:

BY: _____
Mayor

_____
City Clerk

* * * * *

_____
Member

Witnesses as to Member:

_____

_____

A:\SUPP.SSH
FINAL PENSION CONTRACT SUPPLEMENT
(COLA REDUCED 20 AND OUT)

CITY OF TAMPA
FIREFIGHTERS AND POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN CHAPTER 92 - 231, LAWS OF FLORIDA)

THIS AGREEMENT made and entered into this _____ day of _____, A.D., 19____, between the City of Tampa, a municipal corporation of the State of Florida, hereinafter referred to as the City, party of the first part and _____, hereinafter described as member, party of the second part, amending the Pension Contract between the parties made and entered into on the _____ day of _____, 19____, as follows:

W I T N E S S E T H:

THAT WHEREAS, the said City is authorized 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 October 1, 1986, under and by virtue of Chapter 92 - 231, Laws of Florida, Special Acts of 1992 (Senate Bill 1182 of the 1992 Florida Legislature), Subsection 7(A) of the City of Tampa Firefighters and Police Officers Pension Contract is amended as follows:

SECTION 7. BENEFITS, PENSIONS TO MEMBERS - COMPULSORY. The Board shall upon its application retire:

(A) Any member of the Fund having an aggregate of twenty (20) years of actual service in said departments, and having reached the age of forty-six (46) years, who then shall receive in monthly installments a pension equal to fifty per centum (50%) of the member's average earnings for the three (3) highest years within the last ten (10) years of service with a minimum pension of One Hundred Dollars ($100) per month. For each additional year of such actual service after twenty (20) years up to and including twenty-six (26) years, a member shall receive two and one-half per centum (2 1/2%) of average earnings. For each additional year of such actual service after twenty-six (26) years, a member shall receive two per centum (2%) of average earnings not to exceed a total pension of one hundred per centum (100%) of said average earnings. After twenty (20) years of actual service, this pension right shall be a vested right with the payment thereof to begin upon the employee's separation from the service or the employee's reaching the age of forty-six (46) years, whichever shall later occur, so that an employee having twenty (20) or more years actual service who resigns, retires, or is otherwise separated from the service prior to reaching the age of forty-six (46) years may elect to allow his contributions to remain in the pension fund and upon reaching the age of forty-six (46) years shall be entitled to commence receiving a pension based upon his creditable service as herein provided, and should such employee die before reaching forty-six (46) years of age, then at the time the decedent would have reached forty-six (46) years of age the widow or widower shall receive such benefit as the widow or widower would have received under Subsection 9(C) if the employee had died while receiving a pension.

IT IS UNDERSTOOD AND AGREED that the terms and provisions hereinbefore set forth are declared to be a part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of said City by its duly authorized officers and the said party of the second part has hereunto set his hand and seal the day and year first above written.

City of Tampa

By _____
Mayor

ATTEST:

_____
City Clerk

_____ (Seal)
Party of the Second Part (Member)

_____

_____
Witnesses as to the Party of the Second Part

CITY OF TAMPA
FIREFIGHTERS AND POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN ORDINANCE NO. 89-314)

THIS AGREEMENT made and entered into this _____ day of ____, A.D., 19 _____, between the City of Tampa, a municipal corporation of the State of Florida, herinafter referred to as the City, party of the first part and _____, hereinafter described as member, party of the second part, supplementing and amending the Pension Contract, as amended, between the parties made and entered into on the _____ day of _____, 19 _____, by adding thereto the following provisions.

SECTION 2.(G) To the extent that the City of Tampa provides for the payment of benefits otherwise payable by the City Pension Fund for Firefighters and Police Officers in the City of Tampa but for the limits in Section 415 of the Internal Revenue Code, then there shall be a reduction in the amount of the City's contributions otherwise payable to the City Pension Fund for Firefighters and Police Officers in the City of Tampa by an amount equivalent to the amount of benefits provided for by the City of Tampa; provided, however, such amounts shall be included in the calculation of the City's contributions to the City Pension Fund for Firefighters and Police Officers in the City of Tampa pursuant to Section 2(B) of the City of Tampa Firefighters and Police Officers Pension Contract.

SECTION 24.(A) In the event that the provisions of the federal Internal Revenue Code operate to limit the benefit amount that the member or the member's survivors would otherwise be eligible to receive pursuant to the City of Tampa Firefighters and Police Officers Pension Contract, then the member or the member's survivors shall not receive from the City Pension Fund for Firefighters and Police Officers in the City of Tampa retirement benefits in an amount in excess of the limits provided by the federal Internal Revenue Code or in an amount that would cause the City Pension Fund for Firefighters and Police Officers in the City of Tampa to lose its federal income tax exempt status.
(B) In order to maintain the tax exempt status of the City Pension Fund for Firefighters and Police Officers in the City of Tampa, said pension fund shall not be required to pay benefits in excess of the appropriate limits established by Section 415 of the Internal Revenue Code (26 USC Section 415), nor shall said pension fund be required to pay any benefits which would jeopardize its tax exempt status.
(C) Should the benefits otherwise payable pursuant to the City of Tampa Firefighters and Police Officers Pension Contract by the City Pension Fund for Firefighters and Police Officers in the City of Tampa be limited pursuant to Section 415 of the Internal Revenue Code, then the City of Tampa shall provide for payment of those benefits in excess of the limits in Section 415 of the Internal Revenue Code.

IT IS UNDERSTOOD AND AGREED that the terms and provisions hereinbefore set forth are declared to be a part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of said City by its duly authorized officers and the said party of the second part has hereunto set his hand and seal the day and year first above written.

City of Tampa

By _____
Mayor

ATTEST:

_____ _____ (Seal)
City Clerk Party of the Second Part

_____

_____
Witnesses as to the Party of the Second Part

1974

CITY OF TAMPA
FIREFIGHTERS & POLICE OFFICERS
SUPPLEMENTAL PENSION CONTRACT
(AS PROVIDED IN ORDINANCE NO. 6038-A)

THIS AGREEMENT made and entered into this _____ day of _____, A.D. 19____, between the CITY OF TAMPA, Municipal Corporation of the State of Florida hereinafter referred to as the City, party of the first part, and _____, hereinafter described as employee, party of the second part, supplementing and amending the Pension Contract between the parties made and entered into on the _____ day of _____, 19_____.

W I T N E S S E T H:

THAT WHEREAS, the said City is authorized to enter into a contract with said employee of the City, under and by virtue of Chapter 21590, Laws of Florida, Special Acts of 1941, as amended, with certain modifications as were provided for in supplemental contracts heretofore entered into under Chapter 27930, Laws of Florida, Special Acts of 1951, and further modifications as are authorized by Chapter 31310, Laws of Florida, Special Acts of 1955, and provided for by Ordinance No. 2002-A, as amended, and by Ordinance No. 4746-A, and the supplementing of said contract being specifically authorized by Chapter 74-613, Special Acts of Florida of 1974, and by Ordinance No. 6038-A, amending sub-section 7 (a) of said contract so that as supplemented and amended it will be in words and figures to wit:

SECTION 7. BENEFITS, PENSIONS TO MEMBERS - COMPULSORY. The Board shall upon its application retire:

(A) Any member of the Fund having an aggregate of twenty (20)years of actual service in said departments, and having reached the age of forty-six (46) years, who then shall receive in monthly installments a pension equal to fifty per centum (50%) of the member's average earnings for the three (3) highest years within the last ten (10) years of service with a minimum pension of one hundred dollars ($100.00) per month. For each additional year of such actual service after twenty (20) years, a member shall receive two and one-half per centum (2½%) of average earnings not to exceed a total pension of sixty-five per centum (65%) of said average earnings. After twenty (20) years actual service, this pension right shall be a vested right with the payment thereof to begin upon employee's separation from the service or the employee reaching the age of forty-six (46) years, whichever shall later occur, so that an employee having twenty (20) or more years actual service who resigns, retires, or is otherwise separated from the service prior to reaching the age of forty-six (46) years may elect to allow his contributions to remain in the pension fund and upon reaching the age of forty-six (46) years shall be entitled to commence receiving a pension based upon his creditable service as herein provided and should such employee die before reaching forty-six (46) years of age then at the time the decedent would have reached forty-six (46) years of age the widow or widower shall receive such benefit as the widow or widower would have received under sub-section 9 (C) if the employee had died while receiving a pension.

IT IS UNDERSTOOD AND AGREED that the terms and provisions hereinbefore set forth are declared to be a part of the aforesaid contract and such contract is to be construed with reference thereto.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed with the seal of said City by its duly authorized officers and the said party of the second part has hereunto set his hand and seal the day and year first above written.

CITY OF TAMPA

By_____
Mayor

ATTEST:

_____
City Clerk

_____(SEAL)
Party of the Second Part

_____

_____
Witnesses as to Party of the Second Part

City of Tampa Firefighters & Police Officers Pension Contract

THIS AGREEMENT, made and entered into this _____ day of _____, A.D., 1969 between the City of Tampa, a municipal corporation under the laws of the State of Florida, hereinafter referred to as City, party of the first part, and _____, hereinafter described as Employee, party of the second part, for the purpose of continuing on an actuarially sound basis the benefits provided under the pension contracts entered into or continued under Ordinance No. 2002-A, as amended.

WITNESSETH:

That whereas, the said City is authorized to enter into a contract with said Employee of the said City, under and by virtue of Chapter 21590, Laws of Florida, Special Acts of 1941, as amended, with certain modifications as were provided for in supplemental contracts heretofore entered into under Chapter 27930, Laws of Florida, Special Acts of 1951, and further modifications as are authorized by Chapter 31310, Laws of Florida, Special Acts of 1955, and provided for by Ordinance No. 2002-A, as amended, and by Ordinance No. _____, all now being in words and figures, to wit:

SECTION 1. There is hereby created a special fund to be known as the City Pension Fund for Firefighters and Police Officers in the City of Tampa (hereinafter referred to as the Fund); said Fund to be used exclusively for the purpose provided for in this Act, which Fund shall be collected, administered and disbursed according to the provisions of this Act.

SECTION 2. The said Pension Fund shall consist of monies and properties derived from the following sources, which shall be set apart and placed to the credit of such Fund:

(A) The monies and assets now deposited to the credit of and held by the City Pension Fund for Firemen and Policemen of the City of Tampa.

(B) Commencing October 1, 1969, the City shall contribute eleven per centum (11%) of all earnings of employees covered under this contract, which contribution shall be made at the time such earnings are paid. Commencing October 1, 1970, the City shall contribute at the rate of thirteen per centum (13%), and shall continue to increase the rate of contributions by two per centum (2%) on each October 1 thereafter, until such time as a continuation of the then current rate of contribution (or lesser rate of contribution), together with contributions provided for in Section 2 (C), Section 2 (D) and contributions expected from other sources, shall, pursuant to the most recent actuarial report, be sufficient if continued at such level, to fund:

(1) the normal annual cost of the benefits (other than benefits arising from post retirement adjustments made pursuant to Section 23) provided for in this contract; and

(2) any remaining unfunded past service cost of such benefits over a period of forty years from the date of the last actuarial report;

(3) where such costs are determined on a basis consistent with the requirements of actuarial soundness, and the requirements of Chapters 175 and 185 of the Florida Statutes, as they may be amended from time to time, provided that the investment yield assumed in determining such costs shall not exceed 5%. After such time the City shall contribute at such rate of earnings which will be sufficient, if continued, to fund the normal cost each year and the remaining unfunded past service cost over a period of forty years from the date of the most recent actuarial report received from time to time;

(4) provided, however, that in no case shall the contributions by the City in any year, and exclusive of income from other sources, be less than one hundred thirty-three per centum (133%) of the total sum contributed by employees as provided in (D) below; it being expressly understood that when the requirements for continued actuarial soundness of the plan are determined to require less contributions than would result hereby the contributions from the City and employees will be proportionately reduced to rates which will reasonably generate such reduced amount.

(C) The City shall make additional contributions each year as follows:

(1) in the event that the average earnings of all of the members covered under this contract for any twelve month period ending September 30 (determined for this purpose as the total earnings for such period divided by the average of the number of members covered at the beginning and end of the period), shall exceed the similar average earnings for the preceding twelve month period by A%, then commencing on October 1 an additional annual contribution shall be made by the City, equal to A% multiplied by the total earnings for the twelve months preceding such October 1, and multiplied by the pension cost factor associated with such increases as set forth in the most recent actuarial report received from time to time, subject to (2) below;

(2) such additional contributions, together with contributions similarly determined in previous years, shall continue to be paid each year on a cumulative basis until the contributions from all sources (other than investment income) shall meet the standards set forth in Section 2 (B) (1), (2), (3), and (4) after which time such contributions shall be reduced as provided for in the most recent actuarial report received from time to time.

(D) Commencing October 1, 1969, 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:

Earnings in Twelve Month Period Commencing October 1	Employee Contribution Rate
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%

provided, that 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 forty per centum (40%).

(E) All monies and assets which shall be received by the Board for deposit to the credit of or for the account of the Fund from all other sources including the State of Florida.

(F) No monies raised by taxation or otherwise provided for said Pension Fund shall be used other than for the purposes of this Act.

SECTION 3. When used herein the following terms shall have the following meanings:

(A) The term "employee" shall mean any member of the Fire or Police Department employed as a firefighter or police officer, and whose employment shall be regular and continuous and not of a temporary character.

(B) The terms "firefighter" and "police officer" shall be synonymous with the term "employee" as defined above.

(C) The term "member" shall mean an employee contributing or required to contribute to the Fund and entitled to participate in the benefits thereof upon the terms and conditions hereof.

(D) The terms "widow" and "widower" shall mean the lawful wedded spouse of a member of the Fire or Police Departments at the time of such member's death.

(E) The term "earnings" shall mean the base salary or wage exclusive of any casual, non-recurring, or unpredictable overtime, bonuses, or other special payments, providing that regular longevity bonuses shall be included.

(F) The term "actuary" shall mean a Fellow or Associate of the Society of Actuaries, or a firm employing such person, provided that such firm must be nationally recognized in the actuarial field and acceptable to the State Treasurer's Office and to the Board of Pension Trustees.

(G) The term "actuarial report" shall mean a report prepared at least once every five years and in any year in which the average earnings of members increases more than two per centum (2%) of the average earnings the year before, and in any year in which the same shall be required by Chapters 175 and 185, Florida Statutes; such study to be prepared by an actuary and accepted by the Board of Trustees; determining the costs of all benefits provided for under this Act as a result of employment of members and former members, including a review of experience and a determination of a pension earnings increase factor or factors, and including determination of the

effect of adjustments for expected cost-of-living index changes, based upon the data current as of the effective date of the report; and, based upon cost methods, factors, and assumptions consistent with actuarial soundness, and acceptable to the State of Florida as being consistent with the requirements of Chapters 175 and 185 of the Florida Statutes as they may be from time to time amended.

(H) Wherever the term "he" or "him" appears herein the same shall also include "she" or "her" when applicable.

SECTION 4. Before any person shall become a member of the Pension Fund he or she shall be at least twenty-one (21) and not more than thirty-one (31) years of age, be required to pass a complete medical examination including a Wasserman Test, electro-cardiogram, x-ray of the entire spine, and two (2) x-rays anterior-posterior and lateral view of the lumbar sacral spines; and meet all the requirements of the Civil Service Board of the City except the probationary period.

SECTION 5. The general administration and responsibility for the proper operation of the pension system and for making effective the provisions of this Act are hereby vested in a board consisting of nine persons, as follows:

(1) Three members of the City Administration other than firefighters or police officers to be appointed as hereinafter provided;

(2) Three members of the Fire Department to be elected as hereinafter provided; and

(3) Three members of the Police Department to be elected as hereinafter provided.

(A) The term of office of each trustee shall be three years, except that the initial terms of the trustees of each class shall respectively be for one, two, and three years. The initial terms shall commence on the 60th day after the ordinance approving and authorizing this contract shall become a law.

(B) The appointive trustees shall be appointed by the Mayor.

(C) The elective trustees shall be elected in the following manner, to wit: by per capita vote of all members of each of said respective departments who come within the purview of this Act, both active and retired, at meetings to be held at places designated by the Board, at which meetings all qualified members entitled to vote shall be notified in person or by mail ten days in advance of said meeting. The candidate receiving the highest number of votes for each office shall be declared elected and shall take office immediately upon commencement of the term of office for which elected or as soon thereafter as he shall qualify therefor. An election shall be held each year not more than thirty and not less than ten days prior to the commencement of the terms for which trustees are to be elected in that year. The Board of Trustees shall meet, organize, and elect one of their members as chairman, and one member as vice chairman, within ten days after any trustees are elected and duly qualified.

(D) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(E) The trustees shall serve without compensation, but they may be reimbursed from the expense fund for all necessary expenses which they may actually expend through services on the board.

(F) Each trustee shall, within ten days after his appointment or election, take an oath of office before the City Clerk of said City, that so far as it devolves upon him he will diligently and honestly administer the affairs of the said Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicabile to the retirement system. Such oath shall be subscribed to by the member making it and certified by the said clerk and filed in his office.

(G) Each trustee shall be entitled to one vote on the Board. Five votes shall be necessary for a decision by the trustees at any meeting of the Board. The chairman shall have the right to one vote only.

(H) Subject to the limitations of this Act the Board of Trustees shall from time to time establish rules and regulations for the administration of funds created by this Act and for transaction of its business, including provisions for compulsory attendance of its members, which shall have the force of law.

(I) The Board of Trustees shall by majority vote of its members appoint a secretary, who may, but need not be, one of its members. It shall engage such actuarial and other services as shall be required to transact the business of the pension system. The compensation of all persons engaged by the Board of Trustees and all other expenses of the Board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the Board of Trustees shall agree, but in no case shall the expenditures for such services or operations exceed three per cent of the maximum of the fund each fiscal year. All funds shall be disbursed by the Board of Trustees. The secretary shall be bonded in such amount, not less than five thousand dollars, as the Board shall determine. The premium for said bond to be paid out of this fund.

(J) Any trustee who neglects the duties of his office shall be removed by the Board of Trustees.

SECTION 6. Money shall be withdrawn from the Pension Fund created by this Act only upon warrants executed by a majority of the Board of Trustees. Monies needed for the meeting of the current obligations of said fund may be deposited in a depository recognized by law for the deposit of funds of the State of Florida and upon the posting of similar security for that required for state deposits. The Board shall have exclusive charge of the investment of any surplus in said fund not needed for the current obligations thereof; and said funds shall be managed by said Board and shall be invested by said Board in accordance with the following:

(1) That the Board shall retain the services of a nationally recognized professional investment counsel.

(2) That not less than once every six (6) months a written opinion shall be obtained from the investment counsel as to the overall condition and composition of the investment portfolio.

(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; 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, 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 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.

SECTION 7. BENEFITS, PENSIONS TO MEMBERS — COMPULSORY. The Board shall upon its application retire:

(A) Any member of the Fund having an aggregate of twenty (20) years of actual service in said departments, and having reached the age of forty-six (46) years, who then shall receive in monthly installments a pension equal to fifty per centum (50%) of the member's average earnings for the three (3) highest years within the last ten (10) years of service with a minimum pension of One Hundred Dollars ($100.00) per month. For each additional year of such actual service after twenty (20) years, a member shall receive two and one-half per centum (2½%) of average earnings not to exceed a total pension of sixty-five per centum (65%) of said average earnings. After twenty (20) years actual service, and having reached the age of forty-six (46) years, this pension right shall be a vested right with the payment thereof to begin upon employee's separation from the service.

(B) Any member who in the service has received or shall receive within or without the city any injuries, disease or disability, which injury, disease or disability now permanently incapacitates him, physically or mentally from regular and continuous duty as a firefighter or police officer, then he shall receive in equal monthly installments an amount equal to 65% of monthly salary in effect at date of disability retirement with a minimum of $100.00 per month, plus 1/12 of any other earnings received within one year prior to date of disability retirement.

(C) Any member who after ten years of service in said departments has received or shall receive otherwise than in the service of the said departments any injury, disease or disability, which injury, disease or disability, now permanently incapacitates or shall in the future permanently incapacitate him physically or mentally from regular and continuous duty as a firefighter or police officer, then he shall receive in equal monthly installments an amount equal to 2% of his average salary (as above computed) for each year of service with a minimum of 20% and a maximum of 50% of average salary.

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

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

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

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

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

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

SECTION 9. To the widow or widower (until death or remarriage) and child or children (under the age of eighteen (18) years), until death or marriage before reaching the age of eighteen (18) years, of any member who dies from causes not attributed to his active duties

in the departments, provided, however, that such member shall have been a member of such department for ten (10) years prior to the date of his death, the Trustees shall authorize and direct payment in equal monthly installments as follows:

(A) To the widow or widower in equal monthly installments sixty-five per centum (65%) of the service retirement pension earned by the member at date of death, subject to a minimum payment equal to twenty per centum (20%) of average salary (as average salary is above computed).

(B) To the child or children of a member who dies from causes not attributed to active duties in the department, the provisions of Section 8, governing the amounts and conditions of administration of childrens' pensions, shall apply but subject to a limitation on the combined payments to a widow or widower and children equal to fifty per centum (50%) of final salary.

(C) The widow or widower of a member who dies while receiving a retirement pension shall receive sixty-five per centum (65%) of the pension which the member was receiving, but subject to a minimum of twenty per centum (20%) of average salary (as average salary is above computed); provided however, that no pension shall be allowed to any widow or widower unless she or he was married to the member prior to the date of retirement of the member.

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

SECTION 10. Any firefighter or police officer of the City who makes his legal election as provided herein, and who shall make the contribution required to be made hereunder into the Pension Fund, shall be permitted to participate in the fund and benefits thereof, herein and hereby authorized, but nothing herein contained shall be construed as to require or compel any employee to participate in the said pension system.

SECTION 11. All persons entering the employ of the City, as firefighters or police officers subsequent to the time when this Act shall have become a law, shall be required to file their legal election with the City, on or before ninety days from the date of their emploement, in order to entitle them to participate in the benefits and funds herein created and authorized by this Act.

SECTION 12. Whenever any employee, within the terms of this Act, shall file his election with the City of Tampa as hereinbefore provided, the City, within thirty (30) days thereafter, is hereby authorized, empowered and directed to execute a contract as provided for herein in triplicate, one copy to be retained by the City, one copy to be retained by the Pension Board, and the other copy to be delivered to the said employee joining in said contract, and shall thereafter be and remain a contract binding upon the said City and the employee, and enforcible in any Court in the State of Florida having jurisdiction of actions upon contracts in like amount, and by such relief, ordinary or extraordinary, at law, or in equity as may be suitable or appropriate in similar cases.

SECTION 13. MEDICAL BOARD. The Board of Trustees shall designate a Medical Board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of this Act, shall investigate all essential statements or certificates made by or on behalf of a member in connection with an application for disability or retirement and shall report in writing to the Board of Trustees its conclusions and recommendations upon all matters referred to it. The payment for such services shall be determined by the Board of Trustees.

SECTION 14. On compulsory retirement of a member by act of the Board of Trustees any such retired member shall have the right to appeal against such retirement by the Board of Trustees by appealing to a court of proper jurisdiction, and said member shall defray his own expense in his appeal of such compulsory retirement.

SECTION 15. Members entitled to a pension shall not forfeit the same upon dismissal from the department, but shall be retired as herein described.

SECTION 16. In the event a member who has been retired on a pension on account of permanent incapacity regains his full health and is shown to be physically able to perform his duties in the Fire or Police Departments, the Board shall require the said member to resume his position in the respective department and discontinue the pension; provided, however, that, if such member shall have been retired for disability in line of duty, shall not have reached the age of forty-six (46) years and shall within eighteen (18) months after resuming his position pay into the fund an amount equal to the aggregate contributions (computed upon his annual earnings at the time of his disability retirement) he would have been required to make hereunder during the period of his disability retirement had he not been retired, such member shall receive creditable service for the period of such disability retirement.

SECTION 17. COMPUTATION OF PENSION SERVICE.

(A) In computing service allowance, creditable service shall include all service or employment of the member in the Fire or Police Departments, either continuous or interrupted, provided, however, that any leave of absence without pay shall not be included. However, no deduction of time shall be made for any service, not to exceed the period of three (3) years, in any of the armed forces of the United States; provided that such member within one (1) year and six (6) months after his honorable discharge from such active military service, shall contribute into the Pension Fund the required percentage of his earnings at the time of his entering active military service as aforesaid for the full period of time of such active military service within said three (3) year period; provided further that the amount of any pension or compensation that may be received from the Federal Government on account of disability from such service shall be deducted from the amount of any pension due under this Act. The deduction of the amount of any pension or compensation received from the Federal Government shall be made only where the period of military service (not exceeding three (3) years) is added to the period of actual service of the member in either the Fire or Police Departments in order to make up the required number of years for retirement on a City pension; that the disability for which any pension or compensation is received from the Federal Government shall be only such disability that was incurred in the military service during the same period of military service used by the member to add to his actual service in the Police or Fire Departments in order to make up the number of years required for retirement on a City pension; and that no deduction of the amount of any pension or compensation received from the Federal Government can or shall be made from the amount of any City pension granted solely on account of disability. Any member who, in order to perform such active military service, has left his employment in the Police or Fire Departments of the City of Tampa and (a) who received a certificate of honorable discharge upon completion of such active military service, (b) is still qualified to perform the duties of such position, (c) makes or shall have made application for re-employment within thirty (30) days after he is released from active military service, shall be restored by the Police or Fire Department of the City of Tampa to such position or a position of like seniority, status and pay.

(B) Immediately upon the passage of this Act the Board of Trustees shall at once establish the service record of all employees, who may be entitled to participate in the benefits of this Act, and shall keep a record thereof.

SECTION 18. No pension provided for herein shall be assignable or subject to garnishment for debt or for other legal process.

SECTION 19. DURATION OF MEMBER'S PENSION. Pensions granted to retired members shall be paid to them for life and shall not be revoked nor in any way diminished except as provided in this Act, and the payments of the member to this fund shall cease upon his retirement and acceptance of a pension.

SECTION 20. The Board of Trustees shall direct that there be included in the pension list, and be subject to the benefits of this Act, all pensions now being paid by the Fund to widows and children and retired members of the Fire and Police Departments who are now drawing a pension from said fund or may be hereafter entitled thereto, but not to exceed the maximum provided by this Act, and are hereby directed to pay said pensions.

SECTION 21. The Board of Trustees shall have the power to examine into the facts upon which any pension shall have heretofore been granted under any prior or existing law, or shall hereafter be granted under this Act, and ascertain if any pension has been granted or obtained erroneously, fraudulently, or illegally for any reason. Said Board is empowered to purge the pension rolls of any person heretofore granted a pension under prior or existing law, or hereafter granted under this Act, if the same is found to be erroneous, fraudulent or illegal for any reason; and to re-classify any pensioner who has heretofore under any prior or existing law, or who shall hereafter under this Act, be erroneously, improperly or illegally classified.

SECTION 22. Whenever any member in the service of either Fire or Police Department shall sever his connection with such department, either voluntarily or by lawful discharge, all rights under this Act shall thereupon cease automatically unless at the time of such discharge or voluntary retirement, such member has qualified under the terms of this Act, for a pension as herein provided for. Upon severance prior to qualifying for retirement, a member shall receive a refund of contributions without interest. On death of a member where no survivors are eligible to pension benefits, contributions without interest shall be paid to heirs.

SECTION 23.

(1) Commencing September 30, 1970, the size of the Fund, determined on a market value basis, shall be compared with the amount that would have been in the Fund, had the Fund earned 5%, inclusive of realized and unrealized capital gains and losses, compounded annually from October 1, 1969. If on any September 30, the actual fund exceeds the 5% accumulation the excess will be known as the Post Retirement Adjustment Account, provided that for this purpose the 5% accumulation will not be reduced by any post-retirement benefit adjustment payments.

(2) Commencing January 1, 1980, and on each January 1 thereafter, installments due in the following twelve months to members and beneficiaries covered under this contract shall be increased or decreased by (a) below, but shall not be increased by more than (b) below:

(a) The increase or decrease since the preceding January 1, in the ratio of the current average cost-of-living index to the average cost-of-living index determined as the later of October 1, 1978, and the October 1 immediately preceding the date such installments commenced, rounded off to the nearest whole per centum.

(b) The increase which can be applied and continued for remaining installments, by using the excess, if any, on the preceding September 30 of the Post Retirement Adjustment Account over the value of previous cumulative adjustments if continued for remaining installments, all as determined by the Actuary.

(c) Provided that the effect of such cumulative adjustments shall not be such as to reduce installment payments below the rate at which they would have been paid if no such adjustments had ever been made.

(d) The "average cost-of-living index" shall be ascertained each year; determined as the average of the immediately preceding 24 monthly consumer price index figures, relative to the United States as a whole, known as "The Revised 1964 Consumer Price Index Series, Beginning with January, 1964 (Base 1957 - 1989 = 100)", most recently issued as of such date by the Bureau of Labor Statistics. Should the base point or basis of the monthly Consumer Price Index be revised by the Bureau of Labor Statistics, this term shall mean the published average as adjusted by the Board of Trustees with advice from the Actuary so as to maintain consistency in index figures for purposes of this Plan.

WHEREAS, it is beneficial to the said City to have its employees protected by the terms of said fund and benefits and the said employee is desirous of participating in said fund and benefits, it is thereupon,

UNDERSTOOD AND AGREED by and between the parties that the party of the second part does hereby allot, out of his salary, wages or compensation, paid to him by the said City, the required percentage of his earnings and does hereby authorize and direct the disbursing officer or officers of said City to retain out of said wages, salary or compensation said percentage in compliance with the terms of the aforesaid Act of the Legislature, and to continue to make said allotment and authorized said deduction throughout the entire time of his employment or re-employment, or until such time as he shall be entitled to receive the pension allowance or benefit provided by the Fund created in the aforesaid Act.

IT IS FURTHER UNDERSTOOD AND AGREED by and between the parties that the said Board will accept said allotment or deduction from the salary, wages or compensation of said employee aforesaid, and when, under the terms of the aforesaid Act, said employee or other beneficiary of said employee shall be entitled, under the terms of the aforesaid provisions to receive the benefits from said Fund therein created, will pay said sum or sums from said Fund and all other benefits so authorized to said employee or his other beneficiaries, in accordance with said terms without diminution or deduction.

IT IS FURTHER UNDERSTOOD AND AGREED that this contract shall remain in force without change, modification or amendment, until all the purposes now intended to be fulfilled shall have been fully performed, except that payment or other benefits to the party of the second part or such party's beneficiaries may be increased but not diminished except as provided in Section 23.

IT IS FURTHER UNDERSTOOD AND AGREED that employees shall not lose any rights under the terms of this contract by reason of the refusal of the City at any time during the terms hereof to make allotment or deduction from such employees' earnings.

IT IS FURTHER UNDERSTOOD AND AGREED that it is the intention of the parties hereto to create vested rights in the respective parties not to be hereinafter impaired for any cause whatsoever.

IT IS FURTHER UNDERSTOOD AND AGREED that the terms of the provisions hereinbefore set forth are declared to be a part of this contract and this contract is to be construed with reference thereto.

IT IS FURTHER UNDERSTOOD AND AGREED that this contract supercedes any and all contracts heretofore entered into by the parties hereto upon or relating to the subject matter hereof and that any and all of such contracts are supplemental by replacement hereby as of the day and year first above written.

IN WITNESS WHEREOF the party of the first part has hereunto caused these presents to be executed, signed and sealed, with the seal of said City, by its duly authorized officers, and the said party of the second part has hereunto set his hand and seal the day and year first above written.

CITY OF TAMPA

ATTEST:

By _____
Mayor

_____
City Clerk

_____ (SEAL)
"Party of the Second Part"

_____

_____
Witnesses as to Party of
the Second Part

PENSION BOARD POLICIES

FIREFIGHTERS & POLICE OFFICERS PENSION FUND OF THE CITY OF TAMPA

Policy Number: 101
Policy: Board Meetings; Agendas; Minutes
Eff. Date: 6/11/91, 9/26/00, 12/17/03, 4/25/12, 06/25/14
Ref: Board Minutes

POLICY:

A. The Board shall meet at the time and date set at the preceding meeting.

B. The timing of submission of items for the agenda shall be determined by the Administrator and posted on the Fund website. Trustees may add items to the agenda no later than two (2) calendar days preceding the meeting.

C. Agenda packages shall be posted at the earliest reasonable opportunity but not later than two (2) calendar days preceding the meeting.

D. Agenda packages shall be distributed electronically to Trustees and advisors no later than six (6) calendar days preceding the meeting. Should any member of the Board request a printed copy of the agenda, the Administrator shall provide for the delivery to the Board member.

E. No issue which is not otherwise posted on the agenda shall be voted upon at any meeting. Items may be added to the agenda at the meeting for discussion, but any required vote shall take place at the next ensuing regular or special meeting of the Board.

F. Minutes of meetings shall be maintained in accordance with Florida law. At a minimum, minutes shall reflect all motions made and actions taken. Meetings may be audio recorded if requested by a majority of the Board but recording shall not be required.

Chairman

Policy Number: 107
Policy: Appearance Before Pension Board, Public Comments and Decorum
Eff. Date: 08/09/1977 12/14/1993 09/25/2001 01/25/2007 12/13/2007 04/24/2008 02/27/2013 09/25/2013 07/30/2014 08/27/2014
Ref: Board Minutes, Legal Opinion 1/10/2007 09/19/2013

PENSION BOARD POLICIES

FIREFIGHTERS & POLICE OFFICERS

PENSION FUND OF THE CITY OF TAMPA

The following procedure governs appearances before the Board and provides for the maintenance of decorum necessary to permit the Board to complete the business of the Fund. There are two types of appearances before the Board. The first type permits a topic specific statement, which shall not be longer than five (5) minutes in length. The second is a public comment as provided under the Government in the Sunshine Law and is limited to matters on the agenda of a substantive nature upon which the Board will take action in the future. In either type of statement, the speaker is expected to respect the process of managing the business of the Fund for the benefit of the members and beneficiaries. The Board is legally empowered to expel persons who disrupt the meeting. The Board will not censor the content of the message but may prevent the use of loud, offensive, disorderly, threatening, insulting, abusive, or foul language, or prevent behavior which is offensive, disorderly, threatening, abusive, or insulting, or prohibit any person to make personal, impertinent, slanderous, or profane remarks during the meeting.

I. Scheduled Appearances – 5 minutes in length

Any individual (whether representing an individual or an organization) wishing to appear before the Board regarding pension board business shall make a request in writing in 200 words or less on the form promulgated by the Board of Trustees attached hereto. The form may be completed by hand and faxed, mailed, express mailed, hand delivered or scanned and emailed; or the form may be completed using Adobe and emailed, or printed and faxed, mailed, express mailed, or hand delivered. Said request shall include the following:

1. Identification of the speaker and any pertinent affiliations.

2. The topic to be discussed.

3. The action(s) desired of the Board.

Appearances before the Board shall be limited to five minutes, unless otherwise authorized by the Chairman.

Said request shall also comply with board policy.

II. Public Comments – 2 minutes in length

Background: Senate Bill 50, Chapter 2013-227 Laws of Florida, was adopted effective October 1, 2013. Senate Bill 50 governs most public meetings, requires a reasonable opportunity to be heard, provides for payment of attorney's fees in certain cases enforcing SB 50, and permits boards to adopt administrative rules in compliance with Section 286.0114(4), Florida Statutes.

The following practices shall govern Public Comments:

(a) Regular meetings. Public discussion shall be placed on each agenda at the beginning of each scheduled meeting, unless the Chair or presiding officer decides to deviate from these rules on a case-by-case basis.

(b) Special meetings. Public comments at special meetings shall be limited only to the items and matters referred to on the agenda for such special meeting. The Chair or presiding officer may disallow any and all public comments on matters not specifically referred to on the agenda for a special meeting.

(c) Order on agenda. The first agenda item at each regular meeting shall be "public discussion" for fifteen minutes. The Board, by a majority vote, may authorize the extension of time for public discussion until a "time certain."

(d) Procedure for persons wanting to speak. Members of the public who wish to speak under public discussion for either a regular or special meeting shall sign a speaker's request card containing their complete name and a brief discussion of the topic they wish to discuss. Completed cards shall be transmitted to the Chair or presiding officer prior to public discussion and shall be preserved as public records by the Board pursuant to applicable records retention policies.

(e) Time limitation. Public discussion shall be limited to two (2) minutes maximum per person during either a regular or special meeting. The Chair or presiding officer may, in his discretion, authorize the extension of such two-minute timeframe after due consideration for the substance, content and relative importance of such discussion. If the number of persons wishing to speak exceeds the time allotted for public comment, Section 286.0114, Fla. Stat. allows the Board to limit the number of speakers. In such an event, the opponents and proponents of an issue shall have the time divided between them, with each speaker limited to two (2) minutes. Speakers may not aggregate time from other speakers. In lieu of speaking, participants may have their names recorded as being in favor of or against an issue by indicating on forms prepared for that purpose.

(f) Scope. These rules shall not apply to any meeting that is exempt from Section 286.011, Florida Statutes, or to any meeting where the Board is acting in a quasi-judicial capacity.

III. Disruption of Pension Board Meetings or Pension Office Operations; Decorum during Appearances and Public Comments

No person addressing the Board during Appearance or Public Comments shall interrupt or disrupt an individual who is addressing the Board or use loud, offensive, disorderly, threatening, insulting, abusive, or foul language, or behave in an offensive, disorderly, threatening, abusive, or insulting manner, or make personal, impertinent, slanderous, or profane remarks during the meeting. To maintain decorum and order, individuals who disturb the conduct of meetings, or who refuse to conform their discussion to items set in the agenda, may be ejected by the Chair or presiding officer. All remarks shall be addressed to the Board as a body and not to any member thereof. No person other than a Board member or the person having the floor shall be permitted to enter into any discussion, without the permission of the Chair or presiding officer. All questions to the Board shall be directed through the Chair or presiding officer.

Any disruption of a board meeting or pension office operations, whether verbal or up to and including physical violence, will not be tolerated. Individuals disrupting a meeting or pension office operations will be issued a 90-day trespass warning, will be asked to leave the building, and should they refuse to leave or return to the building while the trespass warning is in effect, they will be subject to arrest for trespassing. This trespass warning is applicable at all times in the following 90 days except for attendance at a noticed public meeting.

This action will in no way inhibit any person from the ability to conduct pension business by phone, mail, fax, or email.

Chairman

F:\share\policies\#107 Public Comments 08/27/2014

Appearances Before Pension Board
(Policy & Procedure 107)

Any individual (whether representing an individual or an organization) wishing to appear before the Pension Board regarding pension board business shall make a request in writing in 200 words or less. Said request shall include the following:

1. Identification of the speaker and any pertinent affiliations.

_____
_____
_____
_____

2. The topic to be discussed.

_____
_____
_____
_____
_____
_____

3. The action(s) desired of the Board

_____
_____
_____
_____
_____
_____

Appearances before the board shall be limited to five minutes, unless otherwise authorized by the Chairman.

Said request shall also comply with board policy.

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 108		
Policy: Procedures for Hearings before the Board		
Eff. Date: 03/13/90	11/09/93	
01/28/97	02/25/97	05/13/97
09/09/97	03/28/00	07/25/00
09/26/00	12/17/03	11/19/09
06/24/10	04/25/12	01/30/19
Ref: Board Minutes; Pension Contract Section 5(H)		

POLICY:

A. PURPOSE: The purpose and intent of this policy is to provide a full administrative and quasi-judicial remedy to any person ("affected person") claiming his/her substantial rights have been affected by a decision of the Board of Trustees ("Board"). As an independent administrative entity, the Board is empowered to conduct hearings for the resolution of disputes concerning entitlement to benefits. Hearings involving the determination of factual questions are "quasi-judicial hearings." This means that the Board will be responsible for evaluating all evidence presented, the demeanor of the witnesses and determining the truth of a fact in question.

B. STATUTORY AUTHORITY: As an independent municipal entity, the Board of Trustees is exempt from coverage under the Florida Administrative Procedures Act, Chapter 120, Florida Statutes, except in the case of forfeiture proceedings under Section 112.3173, Florida Statues. The Board is authorized to determine all questions arising under the plan pursuant to Sections 175.071 and 185.06, Florida Statutes and Section 5 of the Compendium Contract.

C. INFORMAL HEARINGS: Below are the procedures for informal hearings before the Board:

a. Requesting an informal hearing: Upon written request on a form adopted by the Board (attached to this policy) submitted to the Plan Administrator via mail or email, the Board shall grant an initial hearing to the affected person. Such written request shall include: (a) the name and status/affiliation (e.g. retiree or active member) of the affected person requesting the initial hearing (the "applicant") and (b) the reason for the request. For a disability hearing, the disability application is the request for an informal hearing. For a forfeiture hearing, the affected person will be provided a notice of proposed agency action to forfeit the benefit, which will outline the steps necessary for an informal hearing.

Upon receipt of a written request for an informal hearing, the Plan Administrator will provide to the affected person confirmation of the date and time of the informal hearing. The Board holds informal hearings at its regularly scheduled meetings, generally held at 1:30 p.m. on the fourth Wednesday of every month. The affected person shall have the right to be accompanied, represented, and advised by counsel.

b. The Board, in its discretion, may appoint an independent advocate to represent the Fund in a disability, contested death benefit, adjustment of benefit, or any other informal hearing. The Board shall be represented by an independent advocate in all forfeiture proceedings.

c. Evidence considered: The evidence considered will be the *written material* provided by the affected person and which shall accompany the hearing request form. **There will be no taking of additional evidence at an informal hearing, except for subparagraph (1) below.** The specific evidence for the various types of hearings will include as follows:
   (1) Disability: Application for line-of-duty or non-line-of-duty disability, medical records, notice of injury reports, medical board reports, and other documents/records related to the disability that would help the Board make a determination. The Board, at its discretion, may ask questions to clarify the information provided during the informal hearing or in the written material. See Board Policy 402 for line-of-duty or non-line-of-duty disability application procedures.
   (2) Forfeiture: All records relating to the criminal charge, prosecution, and conviction of a specified offense.
   (3) Contested death benefits: Beneficiary forms, estate records.
   (4) Adjustment of benefits: Benefit application, benefit calculation, payment records, payroll records.
   (5) All other matters: All information contained within the affected person's pension file and other documents/ records that would help the Board make a determination.

d. The affected person and/or his/her attorney will customarily be afforded fifteen (15) minutes to make a presentation. The fifteen (15) minutes may be extended at the discretion of the Chairman.

e. Decision/Recommendation by the Board: A decision will customarily be made at the informal hearing; however, the Board recognizes that additional research and review may be necessary, on occasion. When a decision is not reached at the meeting where the informal hearing is held, it will come to the Board for consideration at the next meeting or as soon as practical thereafter considering the complexity of the matter. The hearing will be deemed to be continued until such time as a decision is rendered. The Board shall base its decision on the evidence presented.

   Once a decision is made by the Board, written notice by the Board's attorney shall be given to the affected person. The written notice shall contain the specific reasons for the decision and shall advise the affected person of his/her right to request a formal hearing and the time limit in which such formal hearing must be requested in writing, should the affected person wish to exercise that right.

The decision of the Board of Trustees at the informal hearing shall not be final until after the time has expired to request a formal hearing. Upon the expiration of the time to request a formal hearing, if no such hearing is requested, written notice by the Board's attorney shall be given to the claimant(s) stating that the decision of the Board is deemed final.

f. Any affected person wanting a verbatim record of the proceeding shall provide for a certified court reporter to record and transcribe the proceedings. For forfeiture hearings, the Board shall provide a verbatim record.

D. FORMAL HEARINGS: Below are the procedures for formal hearings before the Board:

a. Requesting a formal hearing: In the event the affected person is dissatisfied with the results of the informal hearing, he/she may request a formal hearing by making a written request within thirty (30) calendar days of service of the written order resulting from the informal hearing. In calculating the time, the day of the informal order is not counted but the last day of the period is counted. If the 30th day falls upon a Saturday, Sunday or holiday in which the Pension Fund office is closed or U.S. mail is not delivered, the last day of the period will be the next business day.

Upon receipt of a written request for a formal hearing, the Plan Administrator will issue a written notice setting the time, date, and place of the hearing. Such notice shall be publicly posted in compliance with Florida Statutes. The affected person shall have the right to be accompanied, represented, and advised by counsel.

In order that the appropriate length of time be reserved in the scheduling of a formal hearing, the affected person shall notify the Pension Office in writing of the estimated time needed for the formal hearing no later than **forty-five (45) calendar days** prior to the date of the formal hearing. The written notification must also include a list of witnesses who will testify at the formal hearing.

Formal hearings must be scheduled and heard within one year of the request for formal hearing. If the formal hearing is scheduled but not heard within one year due to a request by the applicant, the matter shall be placed on the next Board agenda following the one-year expiration period and the Board shall deny the matter, unless good cause is shown satisfactory to the Board why it should not be denied. Written notice shall be sent to the affected person informing him/her that the matter is being placed on the Board's agenda and that it will be denied unless good cause is shown. Examples of good cause are death or disability of a doctor/witness, or a serious physical infirmity of the affected person or

his/her attorney (such as paralysis or coma) which prevents the attorney from preparing for the formal hearing.

b. The Board, in its discretion, may appoint an independent advocate to represent the Fund in a disability, contested death benefit, adjustment of benefit, or any other formal hearing. The Board shall be represented by an independent advocate in all forfeiture proceedings.

c. Evidence considered: Additional evidence not presented at the informal hearing may be presented at the formal hearing. Witnesses may appear at a formal hearing in person or by deposition. All testimony, including that of the affected person, will be sworn or affirmed. Arrangements for any evidence requiring audio/visual setup must be made 5 business days prior to the formal hearing. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

   In those cases involving medical testimony, the Board prefers that testimony of witnesses other than the affected person be submitted by deposition transcript, because it will give the Board more time for review and consideration. Depositions timely submitted, as described below, will be part of the record for consideration before the Board but will not be read in totality at the formal hearing. However, this does not preclude the affected person or his/her attorney from reading parts of the deposition transcripts as part of an opening statement or closing argument.

   The Board is responsible for submitting any documents to the pension office in accordance with the timeline described below and is responsible for the appearance of any witnesses called on behalf of the Board. The affected person is responsible for submitting any documents to the pension office in accordance with the timeline described below and is responsible for the appearance of any witnesses called on behalf of the affected person.

   Copies of all documents to be offered into evidence at the formal hearing, including depositions, shall be furnished to the Pension Office by the offering person at least **thirty (30) days prior to the formal hearing.** In disability cases, or a case concerning admission into the Pension Fund, or cases involving benefit terminations, any newly offered medical evidence received thirty (30) days prior to the formal hearing shall be forwarded directly to the Medical Director for submission to the previous examining medical board physicians for their review, comments, and opinions. Documents not furnished to the pension office within the prescribed time limit shall be excluded from evidence at the formal hearing, except as authorized by the Chairman.

Any costs associated with discovery, appearance of any witnesses called at the formal hearing on behalf of the affected person, and/or the making of a verbatim record of the proceedings shall be the responsibility of the affected person. However, the Fund will reimburse the affected person fifty (50) percent of the costs for depositions of the Fund's medical board doctors if: (1) the counsel for the Board attends such depositions and (2) the affected person files all pages of the original deposition transcript with the Plan Administrator at least thirty (30) days prior to the formal hearing. Such costs shall be limited to (1) reasonable witness fees of the medical board doctors to attend a deposition at the request of the affected person and (2) reasonable cost to obtain the original transcript of the deposition of the medical board doctors, including the court reporter's appearance or per diem fee.

d. Burden of proof: Except in the case of forfeiture proceedings, the applicant will bear the burden of proof to prove the matter at issue by the greater weight of the evidence. In a forfeiture proceeding, the burden of proof shall be on the Fund to prove that a specified offense has been committed by clear and convincing evidence.

e. Evidentiary issues: Counsel for the Board shall assist the Board in determining evidentiary issues and shall advise the Board on the applicable law. All evidentiary objections shall be resolved by the Chairman, subject to review by a vote of the Board. The rules of evidence applicable in civil proceedings will not apply. Rules of evidence generally applicable in administrative proceedings shall apply. Hearsay shall be admissible as corroborating evidence but may not be the sole proof of an issue.

f. Procedures for forfeiture hearing: The Chairman, or designee, shall open the formal hearing by outlining the procedures to be followed, as listed below:
    (1) Opening statement by Board's advocate
    (2) Opening statement by the affected person or his/her attorney
    (3) Presentation of the Board advocate's case in chief, including cross-examination of any witnesses
    (4) Presentation of the affected person's case in chief, including cross-examination of any witnesses
    (5) Rebuttal evidence from the Board's advocate
    (6) Closing argument by the Board's advocate
    (7) Closing argument by the affected person or his/her attorney

g. Procedures for all other hearings: The Chairman, or designee, shall open the formal hearing by outlining the procedures to be followed, as listed below:
    (1) Opening statement by the affected person or his/her attorney, not to exceed five (5) minutes

(2) Opening statement by Board's advocate, if applicable, not to exceed five (5) minutes
(3) Presentation of the affected person's case in chief, including cross-examination of any witnesses
(4) Presentation of the Board advocate's case in chief, including cross-examination of any witnesses
(5) Closing argument by the affected person or his/her attorney, not to exceed ten (10) minutes
(6) Closing argument by the Board's advocate, not to exceed ten (10) minutes

h. Decision/Recommendation by the Board: Once the formal hearing is closed, the Board shall enter the determination phase to make findings of fact and conclusions of law as to the evidence presented. A decision shall be made at the formal hearing and the Board shall base its decision on the evidence presented.

Written notice by the Board's attorney shall be given to the affected person in the form of a Final Administrative Order ("Order"). The Order shall contain the specific reasons for the decision and shall advise the affected person of his/her appellate rights and the time limit in which such appeal must be filed.

The decision of the Board of Trustees at the formal hearing shall not be final until after the time has expired to request an appeal. Upon the expiration of the time to request an appeal, if no such appeal is requested, written notice by the Board's attorney shall be given to the claimant(s) stating that the decision of the Board is deemed final.

Any applicant aggrieved of the Board's Order may file a petition for writ of common law certiorari in the circuit court of the 13th Judicial Circuit of Florida within 30 days of the date the order is filed with the Administrator/Clerk of the Board in the manner prescribed in the Florida Rules of Court. The sole issues for review shall be (1) whether the applicant was provided due process; (2) whether the decision is based on competent and substantial evidence; or (3) whether the Board's decision departed from the essential requirements of the law.

i. The affected person requesting a formal hearing shall provide for a certified court reporter to record and transcribe the proceedings. For forfeiture hearings, the Board shall provide a verbatim record.

E. The Plan Administrator shall be deemed the Clerk of the Board.

F. In any administrative proceeding under Chapter 120, Florida Statutes or in any judicial proceeding, the prevailing party shall recover reasonable attorneys' fees and costs as provided in Chapters 175 and 185, Florida Statutes.

G. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit available under a retirement plan receiving funding under Chapters 175 and 185, Florida Statutes (175.195, 185.185). This pension fund receives funding under Chapters 175 and 185, Florida Statutes. Any person who violates this section is guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082 or 775.083, Florida Statutes. In addition to any applicable criminal penalty, upon conviction for a violation described herein, a participant or beneficiary of a pension plan receiving funding under Chapters 175 and 185, Florida Statutes, may, in the discretion of the Board of Trustees, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled. For the purposes of this paragraph, "conviction" means a determination of guilt that is the result of a plea or trial regardless of whether adjudication is withheld.

Gregory P Reed
Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 201
Policy: Medical Examination of New Pension Fund Applicants
Eff. Date: 02/09/88 04/13/93 05/10/94 11/18/04 07/28/11 02/22/17
Ref: Board Minutes Pension Contract (Sections 4, 5h, and 13)

POLICY:

1) PURPOSE: To define the medical elements required prior to acceptance as a member into the Firefighters and Police Officers Pension Fund of the City of Tampa (the Fund). No applicant shall be accepted as a member of the Fund until all medical examination requirements have been successfully completed and accepted be the Medical Board and the Board of Trustees.

2) PROCEDURES:

   a) An applicant into the Fund must submit to a complete medical examination by the Admission/Review Medical Board within twelve (12) months before being employed as a firefighter or police officer by the City of Tampa, and

   b) A "complete medical examination" shall include:

      1. A complete list of all medical providers, insurance companies, and authorizations to obtain such medical records; and

      2. A review by the director of the Medical Board of all available past medical records; and

      3. An appropriate medical history screening and physical examination by the Medical Board incorporating medical standards and guidelines recommended by the Florida Department of Law Enforcement, the American College of Occupational and Environmental Medicine, the National Fire Protection Association, and the California Peace Officer Standards and Training. Additional evaluation may be requested by the Medical Director with a specialist at the expense of the applicant; and

      4. At a minimum, the medical examination will include review of medical history, physical examination, functional examination of the back and neck, and echocardiogram. Testing will include tuberculosis exposure and immune status for Hepatitis A, B and C. Laboratory testing will include urine drug testing, routine urinalysis, hemogram, comprehensive metabolic panel, and lipid panel. Further testing may include an exercise stress test, as determined by the Medical Board based upon the individual's risk factors; and

5. A review by the director of the Medical Board of all medical information forms, including a medical information update form completed no more than thirty (30) days prior to admission; and

6. Completion of a psychological evaluation by a psychologist contracted by the City of Tampa and with results satisfactory to the City of Tampa.

3) Admission into the Fund after a complete medical examination but prior to review of all available medical records, and additional medical testing and medical examination deemed necessary, shall be conditional and subject to revocation.

4) A medical examination shall not be determined to be complete until all available past medical records are received and reviewed and any additional medical testing or examinations do not reveal a medical condition which precludes admission into the pension fund.

5) Any person applying for membership into the Fund shall sign an acknowledgement that admission into the Fund is conditional, subject to review by the Medical Board of all medical records and the results of any additional required medical testing or examinations when deemed necessary.

6) Any person who is conditionally admitted into the Fund and later deemed ineligible for employment as a firefighter or police officer as a result of the receipt and evaluation of any medical information shall be excluded from the Fund and refunded all employee contributions without interest.

7) Falsification or withholding of any information may result in loss of eligibility for employment and/or loss of eligibility to join the Fund or expulsion from the Fund, if admitted; or may result in disqualification for disability benefits.

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 207
Policy: Return to Active Membership
Eff. Date: 05/28/91 04/13/93 01/25/94 06/06/95 02/25/97 12/15/98 07/11/00 11/18/04 06/24/10 03/24/11 07/28/11 02/25/15 09/23/15
Ref: Board Minutes

POLICY:

I. PURPOSE: The purpose of this policy is to:

A. Specify the necessity and type of medical examination required of former member who returns to active duty after separation or an extended leave of absence, and

B. Specify when a member may purchase past creditable pension service.

II. DEFINITIONS:

A. Separation from service shall mean the member has terminated employment, voluntarily or involuntarily, with Tampa Fire Rescue or the Tampa Police Department.

B. A member who has obtained a refund of employee contributions has terminated membership in the Fund.

C. A member who has been discharged from employment and is not contesting the discharge through any lawfully available review process is deemed separated. A discharged member who is seeking legal review of a discharge remains a member during the review process, but any injury or illness incurred during this period shall not be considered service for the purposes of a disability retirement.

D. A leave of absence, for the purposes of this Policy is the period of time when a member is not actively performing services in his/her respective departments and is also unpaid. This Policy does not apply to paid leave.

III. PROCEDURES

A. Required Medical Examination Upon Readmission to the Fund

1. Any re-admitted member who was separated from service in an unpaid status for a period in excess of six (6) months shall be required to undergo the same medical exam as if the member was first employed. Such examinations shall be at the expense of the Fund. Any such re-admitted member shall execute all necessary releases of medical information promulgated by the Fund. The term "medical examination" shall include a psychological evaluation administered by the City and at the expense of the City.

2. Any readmitted member who had previously withdrawn contributions and seeks to purchase credit for prior service shall be responsible for bearing the full cost of the medical examination. The readmitted member shall have 12 months after re-employment to reimburse the Fund for the cost of the examination.

3. If the readmitted member is not continued in employment as a result of the medical examination, the City shall reimburse the Fund for the cost of the examination.

4. No rehired member who is retained by the City in a position covered by the Fund following the medical examination shall be denied admission to the Fund on the basis of any medical condition.

5. No rehired member who is restored to service under the provisions of any veterans' re-employment law, under the FMLA or comparable law, or who is ordered reinstated to employment by a court of competent jurisdiction or arbitrator with no suspension shall be required to undergo a medical examination.

6. Members on a paid leave of absence shall not be required to undergo a medical examination upon return to regular duty.

B. Applicable Pension Contract

1. A member who separates from service and is re-admitted to the Fund shall sign the pension contract in effect on the date of re-admission in effect at that time. If that member purchases prior service credit, the member's last effective pension contract shall apply, unless the member elects any subsequent contract within 30 days of re-admission and begins payment of the member contribution rate.

2. In the case of a member purchasing past service credit, no injury, illness, or disability incurred under the prior pension contract shall be deemed a pre-existing condition which would otherwise disqualify the member for disability benefits from the Fund.

C. Creditable Pension Service

1. Pursuant to Section 17 of the pension contract, no period of unpaid service shall be deemed creditable service. No period of time in which a longevity retiree was separated and in receipt of benefits shall be treated as creditable service. No period of time as a deferred retiree shall be deemed creditable service.

2. A disciplined member who is returned to service as result of a successful appeal of the discipline shall be entitled to creditable service for all such periods for which back pay is received. Any reinstatement with less than full pay shall only be treated as creditable service to the extent back pay is awarded. Any back pay awarded shall be subject to reduction by the amount of employee contributions which would have been paid but for the discipline. Employer contributions and interest on employee and employer contributions will be paid for by the City and included with the quarterly employer contribution match transfer to the Fund following the payment of the employee contributions.

3. A member who separated from service and withdrew the member contributions and is later re-hired in a position covered by the Fund shall have the option of being treated as a new member or purchasing the past service credit.

    a. In the case of a member electing to repurchase prior service credit, the member shall execute such forms as required by the Fund, which shall constitute a legally binding agreement.

    b. The Fund shall inform the member of the amount due, including interest from the date the contributions were withdrawn to the date of replacement at the Fund's assumed rate of investment return. Upon written or electronic notification to the member, the member shall have ninety (90) days to make the required payment. If the member fails to make the repayment within the required period, any amount repaid shall be returned without interest and no benefit shall include the prior service. No further opportunity to purchase prior service shall be granted.

4. A member who fails to complete the required payment within the prescribed time may only restore the prior service on the same basis as a member purchasing prior police or fire service, by paying the full actuarial cost, as prescribed in Policy 439.

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 209
Policy: Readmission to Pension Fund after Longevity or Deferred Retirement
Eff. Date: 11/25/03 02/25/15
Ref: Pension Contract Legal Opinion 2003-01

POLICY:

I. PURPOSE: The purpose of this policy is to specify the condition of membership for a longevity retired or deferred retired member upon re-employment in a position covered by the Plan.

II. DEFINITIONS:

A. A longevity retiree is a member who has completed 20 years or more of credited service or has obtained age 46 with 10 years of credited service and has commenced receipt of retirement benefits.

B. A deferred retiree is a member who has separated from service with at least 10 years of credited service but who has not attained age 46 and commenced receipt of retirement benefits.

C. This policy shall not apply to a rehired retiree who is appointed to the position of Police Chief or Fire Chief, and who opts not to rejoin the Fund.

III. PROCEDURES

A. Required Medical Examination Upon Readmission to the Fund

1. A longevity retiree or deferred retiree who is re-employed in a position covered by the Fund shall be required to undergo the same medical examination as is the rehired member was being initially employed. Such examinations shall be at the expense of the Fund. The term "medical examination" shall include the psychological evaluation administered by the City and at the expense of the City. Any such re-admitted member shall execute all necessary releases of medical information promulgated by the Fund.

2. If the readmitted member is not continued in employment as a result of the medical examination, the City shall reimburse the Fund for the cost of the examination.

3. No rehired member who is retained by the City in a position covered by the Fund following the medical examination shall be denied admission to the Fund on the basis of any medical condition.

B. Applicable Pension Contract

1. A re-employed longevity or deferred retiree shall be required to make an election to rejoin the plan within 90 days of re-employment. Upon making such an election, the re-admitted member shall execute the pension contract then in effect and commence payment of the employee contribution then in effect.

C. Creditable Pension Service

1. Pursuant to Section 17 of the pension contract, no period of time in which a longevity retiree was separated and in receipt of benefits shall be treated as creditable service. No period of time as a deferred retiree shall be deemed creditable service.

2. Any longevity retiree shall have benefits suspended during any period of re-employment. No deferred retiree can commence benefit payments while in service.

3. A rehired longevity retiree or deferred retiree may not utilize any subsequent period of re-employment for the purpose of increasing the value of the benefits earned during any prior period of employment.

4. Upon separation from the most recent period of service, monthly pension benefits earned during the most recent period of employment shall be calculated and added to the benefits at the level in effect at the time the benefits were earned during any prior period of employment. Cost of living benefit and 13th check eligibility will be based on the date of the most recent separation, without regard to any prior eligibility period. The manner of payment will be in compliance with Policy & Procedure 414.

5. A rehired longevity retiree who participated in the Deferred Retirement Option Program (DROP) during a previous period of service may not participate in DROP a second time. Once a participant in DROP separates from service, he/she cannot rejoin DROP at a later date.

Chairman

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City of Tampa Firefighters & Police Officers

Medical Standards

Developed by:

- Dr. James Hillman & Dr. Kathy Jenkins – Medical Toxicology Consultants and COMBI (Tampa F&P Pension Board Medical Director), based upon California Law Enforcement Medical Screening

with input from

- City of Tampa Firefighters & Police Officers Pension Board Committee #1 (Joe Abrahams, Mike Howard & R. B. Simmons)
- City of Tampa Personnel (Richard Coane, Director and Lydia Storck)

Adopted/Approved by Tampa Fire & Police Pension Board on March 9, 1999

Revision to Vision Standards Adopted/Approved by Tampa Fire & Police Pension Board on April 25, 2000

Developed Specifically for Tampa

- Applicant Examination Process
- Vision Guidelines
- Hearing Standards
- Medical History Statement
- Medical Examination Report

City of Tampa Firefighters and Police Officers Applicants Examination Process

1. History
   - New updated history form with review by Medical Director or Associate Medical Director

2. Physical Exam
   - Physical form, three physicians, one rectal exam.

3. Labs
   - CBC with diff
   - Chemistry Profile
   - Urinalysis,
   - Hepatitis Profile

4. Vision Testing
   - Full

5. Audiometry Testing
   - Full

6. TB
   - Skin testing

7. Spirometry

8. Echocardiogram
   - To be performed on all applicants. If deemed necessary by the examining physician, and approved by the Medical Director or Associate Medical Director, additional cardiac evaluation and consultation may be requested in individual situations, including but not limited to:
     - Obesity
     - History of chest pain
     - History or presence of increased / decreased heart rate
     - History or presence of hypertension / hypotension
     - Increased risk of ischemic heart disease
     - Family history of early cardiac disease

9. Chest X-ray
   - If indicated, smoking history over age 45 years, +TB test

10. Functional Examination of the Back & Neck
    - Performed on all applicants. If deemed necessary by the examining physician, and approved by the Medical Director or Associate Medical Director, x-rays may be obtained.

<u>Decision-making reference:</u>

The medical board will use Medical Screening Manual For California Law Enforcement

City of Tampa Firefighters and Police Officers Vision Guidelines

1. Far Vision
   Corrected vision 20/30 or better

2. Use of Contact Lenses
   Stable for 1 month

3. Corrective corneal surgery
   Deferral of 3 months from time of procedure
   No difficulty with glare or night vision

4. Visual Fields
   140° or better

5. Binocular Vision
   Minimum stereopsis of at least 80" by achieving a score of 6 or better on Titmus Stereo Test

6. Color Vision
   Pass PIP
   If fail, refer
   X chromatic lens not permitted during testing

The applicant will require further testing by an optometrist or ophthalmologist and is to be placed on medical hold in the interim. The Medical Screening Manual for California Law Enforcement is used as a guideline for all applicants.

- Initially Adopted by Tampa Fire & Police Pension Board on 3/9/99
- Revisions Recommended on 4/19/2000 by Pension Board Committee #1 with City of Tampa Personnel and Medical Director -- Adopted by Pension Board 4/25/2000.

City of Tampa Police and Firefighters Hearing Standards

Hearing

	500	1000	2000	3000
Frequency (Hz)	Hz	Hz	Hz	Hz
Better ear (Db)	35	30	30	50
Poorer ear (Db)	35	50	50	60

Acceptable thresholds using calibration standards of the American National Standards Institute, 1969 (ANSI) 11 West 42nd Street, New York, NY 10036

If applicant is unable to hear at the above thresholds after repeated audiometric testing, further evaluation by an audiologist is required. Applicant can repeat the test after being in a noise free environment for over 14 hours. The applicant will be placed on medical hold until this evaluation is completed.

Medical History Statement

The City of Tampa Firefighters and Police Officer Pension Fund applicants are examined by three licensed physicians to ensure the absence of any physical defect or medical condition, which might adversely affect job performance.

The information you provide in this statement is extremely important. It will be used by medical health professionals to evaluate your qualifications for the position of entry-level fire fighter or law enforcement officer. Therefore, please fill out the questionnaire completely and accurately. Please keep in mind that: (a) all statements are subject to verification; and (b) deliberate inaccuracies or incomplete statements may bar or remove you from employment.

This form must be completed and presented when reporting for your medical examination. This information will assist the examining physicians in conducting your medical examination and in making appropriate recommendations.

When answering "Yes" or "No" questions, place an "X" in the appropriate space. If you are unable to answer a question for any reason, place a "?" in the "Yes" space. Please explain all "Yes" items in the designated areas. Most individuals will have some "Yes" answers. A "Yes" answer does not necessarily mean that you will be disqualified.

This statement is confidential. If hired, the information you provide will be part of your medical record, separate from your personnel file.

>			/ /
Last	First	Middle	Date of Birth
>			
Address		City, State	Zip Code
> ( )	( )	( )	
Contact Phone Numbers			
> -- --	*(In accordance with Federal Privacy Act of 1974, disclosure is voluntary. Will be used for identification purposes to maintain proper records.)*		--
Social Security Number			

I, the undersigned, do hereby consent to undergo a medical examination, including blood and urine testing, x-rays, skin tests, and other examinations which the examiner may consider necessary to complete the medical evaluation. I also authorize the medical examiner to obtain current or past medical records and to discuss my medical status and history with my treating physician or other medical consultants as necessary.

Signature in full

Date completed

PLEASE LIST PREVIOUS EMPLOYMENT THAT LASTED AT LEAST SIX (6) MONTHS (INCLUDING MILITARY SERVICE):

Date of Employment	Employer	Job Title	Significant Exposure to Noise or Chemicals?

PLEASE INDICATE WHETHER YOU HAVE EVER HAD ANY OF THE FOLLOWING CONDITIONS:

Yes	No	Eye, Ear, Nose, Throat
1) ☐	☐	Eye Surgery
2) ☐	☐	Glasses or Contacts
3) ☐	☐	Cataracts
4) ☐	☐	Blurred/Double Vision
5) ☐	☐	Color Deficiency or Blindness to any degree
6) ☐	☐	Orthokeratology
7) ☐	☐	Radial Keratology or Keratotomy
8) ☐	☐	Glaucoma
9) ☐	☐	Blindness in one or Both eyes
10) ☐	☐	Sinus Trouble
11) ☐	☐	Frequent Hoarseness
[illegible] ☐	☐	Allergy/Hay Fever
[illegible] ☐	☐	Ruptured Ear Drum
[illegible] ☐	☐	Ringing/Buzzing in ears
15) ☐	☐	Loss of Hearing
16) ☐	☐	Ear Surgery
17) ☐	☐	Ear Aches
18) ☐	☐	Other not listed

Yes	No	Respiratory
19) ☐	☐	Asthma (Age of last episode_____)
20) ☐	☐	Shortness of Breath
21) ☐	☐	Chronic/Frequent Cough
22) ☐	☐	Tuberculosis
23) ☐	☐	Emphysema
24) ☐	☐	Coughed up blood
25) ☐	☐	Pneumothorax (collapsed lung)
26) ☐	☐	Pneumonia
27) ☐	☐	Sarcoidosis
28) ☐	☐	Other not listed

Yes	No	Genitourinary
29) ☐	☐	Kidney Disease/Stone
30) ☐	☐	Bladder Trouble
31) ☐	☐	Difficulty Urinating
32) ☐	☐	Blood in Urine
33) ☐	☐	Prostate Trouble
34) ☐	☐	Irregular Vaginal Bleeding
35) ☐	☐	Menstrual Problems that effected job
[illegible] ☐	☐	Other not listed

Yes	No	Gastrointestinal
37) ☐	☐	Ulcer/Stomach Trouble
38) ☐	☐	Vomited Blood
39) ☐	☐	Persistent Diarrhea
40) ☐	☐	Colitis
41) ☐	☐	Blood in Stool
42) ☐	☐	Recurrent Hemorrhoids
43) ☐	☐	Gall Bladder Trouble
44) ☐	☐	Hepatitis/Jaundice
45) ☐	☐	Recurrent Stomach Pain
46) ☐	☐	Mucous in Stool
47) ☐	☐	Pancreatitis
48) ☐	☐	Abnormal Liver Tests
49) ☐	☐	Hernia
50) ☐	☐	Ulcerative Colitis
51) ☐	☐	Irritable Bowel Syndrome
52) ☐	☐	Tarry Black Stool
53) ☐	☐	Ulcer
54) ☐	☐	Crohn's Disease
55) ☐	☐	Other not listed

Yes	No	Cardiovascular
56) ☐	☐	Heart Attack or Chest Pain
57) ☐	☐	Heart Trouble/Murmur
58) ☐	☐	Mitral Valve Prolapse
59) ☐	☐	Palpitation (Irregular Heartbeat)
60) ☐	☐	High Blood Pressure
61) ☐	☐	Pain or Discomfort in Chest
62) ☐	☐	Rheumatic Fever
63) ☐	☐	Swelling of Feet
64) ☐	☐	Leg Pain Walking/Numbness
65) ☐	☐	Painful Varicose Veins
66) ☐	☐	Other not listed

Yes	No	Musculoskeletal
67) ☐	☐	Fractures/Broken Bones
68) ☐	☐	Back Trouble/Pain or Sciatica
69) ☐	☐	Neck Trouble/Pain
70) ☐	☐	Numbness of Extremities
71) ☐	☐	Shin Pain
72) ☐	☐	Arthroscopy
73) ☐	☐	Arthritis/Rheumatism
74) ☐	☐	Joint Pain or Swelling
75) ☐	☐	Other not listed

Yes	No	Joint Injury/Surgery/Dislocation/Pain/Swelling
76) ☐	☐	Shoulder
77) ☐	☐	Elbow
78) ☐	☐	Wrist
79) ☐	☐	Fingers/Toes
80) ☐	☐	Hip
81) ☐	☐	Knee
82) ☐	☐	Ankle/Foot

Yes	No	Neurology
83) ☐	☐	Epilepsy
84) ☐	☐	Convulsions/Seizures
85) ☐	☐	Fainting Spells/Blackouts
86) ☐	☐	Recurrent Dizziness
87) ☐	☐	Head Injury
88) ☐	☐	Recurrent Headaches
89) ☐	☐	Stroke
90) ☐	☐	Skull Defect
91) ☐	☐	Meningitis/Encephalitis
92) ☐	☐	Other not listed

Yes	No	Miscellaneous
93) ☐	☐	Diabetes (Sugar in Urine)
94) ☐	☐	Low Blood Sugar
95) ☐	☐	Thyroid Trouble
96) ☐	☐	Bleeding Tendencies
97) ☐	☐	Anemia
98) ☐	☐	Enlarged Glands
99) ☐	☐	Cyst/Tumor
100) ☐	☐	Rashes
101) ☐	☐	Wool Allergy
102) ☐	☐	Non-Healing Sores
103) ☐	☐	Recent Change in Wart/Mole
104) ☐	☐	Cancer/Leukemia
105) ☐	☐	Chronic Fatigue
106) ☐	☐	Night Sweats
107) ☐	☐	Undesired Weight Loss or Gain
108) ☐	☐	Heat Stress
109) ☐	☐	Environmental Illness
110) ☐	☐	Multiple Chemical Sensitivity
111) ☐	☐	Fever more than1 month
112) ☐	☐	Any other problems not listed

Please use this space to provide explanations for any item marked "Yes" on the above list.

Item # Response

_____

_____

_____

_____

_____

_____

Yes No

☐ ☐ 113) Have you ever had a medical examination for police officer or fire fighter? If "Yes", when and for what agency/municipality?_____

_____

☐ ☐ 114) Have you worked as a police officer or fire fighter before? If "Yes", where?_____

☐ ☐ 115) Describe your typical exercise or physical activity including that at work:_____

_____

Activity	How much time do you spend doing this per week?	How many months/years have you been doing this activity?
#1_____	_____	_____
_____	_____	_____
#3_____	_____	_____

☐ ☐ 116) Have you had an X-ray, CT scan, MRI or other diagnostic procedure?
☐ ☐ 117) Have you been advised to have any diagnostic test, hospitalization or surgery, which has not been completed?
☐ ☐ 118) Are you a current cigarette smoker, pipe smoker, or do you chew tobacco?
How many packs of cigarettes do you smoke a day? _____
How long have you been smoking cigarettes? _____
How much pipe tobacco do you smoke a day?_____
How long have you been smoking pipe tobacco?_____
How much tobacco do you chew a day?_____
How long have you been chewing tobacco?_____
☐ ☐ 119) Are you an ex-smoker?
How many years did you smoke? _____
How many packs a day? _____ When did you quit? _____
☐ ☐ 120) Have you ever been enrolled or are now enrolled in a drug or alcohol rehabilitation program?
If "Yes", please provide details and dates:_____

_____

121) When was your last alcoholic drink? _____

122) I drink _____ beers; _____ ounces or hard liquor; _____ ounces of wine a week.

123) I am _____ right _____ left handed.

124) Describe any hobbies/recreational activities that expose you to noise or chemicals. _____

_____

_____

_____

_____

_____

	Yes	No	
125)	☐	☐	Have you ever been unable to hold a job or been refused employment because of any physical, mental, or other medically related reason?
126)	☐	☐	Have you ever been rejected for or discharged from a military position because of any physical, mental, or other medically related reason?
127)	☐	☐	Have you ever taken any illegal drugs? If "Yes," list type, frequency and date last used below.
128)	☐	☐	Have you ever been medically disqualified or terminated from employment due to a positive drug or alcohol test?
129)	☐	☐	Have you taken any prescription or over-the-counter medications in the last 12 months? This would include vitamins, birth control pills, antacids, laxatives, aspirins, antihistamines, and weight reducing aids. If "Yes," please list name and dosage. _____
130)	☐	☐	Have you ever been absent from work due to job stress?
131)	☐	☐	Have you ever had any surgical operations?
132)	☐	☐	Have you ever been hospitalized (at least overnight)? If "Yes," list year, age, reason, and length of stay. _____
133)	☐	☐	Are you currently under a doctor's care?
134)	☐	☐	Are you currently limited by any temporary conditions (e.g., broken bone, pregnancy, recovery from surgery)? If "Yes," please describe. _____
135)	☐	☐	Have you ever had any doctor-imposed activity restrictions? If "Yes," please describe below.
136)	☐	☐	Have you ever been to a doctor for back/neck pain or problems?
137)	☐	☐	Have you ever been off work because of back/neck pain or problems?
138)	☐	☐	Is there any history of heart disease in your immediate family?
139)	☐	☐	Do any diseases run in your family?
140)	☐	☐	Do you or anyone in your family have high cholesterol?
141)	☐	☐	Have you ever coughed, wheezed, or had chest discomfort after exercise?
[illegible])	☐	☐	Do you currently have a cold/cough or have you had either in the last two weeks?
[illegible])	☐	☐	Have you recently been exposed to smoke or any noxious or chemical fumes?
144)	☐	☐	Have you missed more than 5 days from work due to medical reasons in the past 12 months?
145)	☐	☐	Have you been exposed to loud noise today? If "Yes," were you wearing protection? _____

Please provide an explanation for all items marked "Yes" above, referencing the item number in response. In addition, describe anything else which you feel may be important in your medical history, including any conditions not specifically referred to in the preceding questions.

Item #	Response

Item #	Response

I hereby certify that all statements made in this Medical History Statement are true and complete, I understand that any misstatement of material fact may subject me to disqualification or dismissal.

Signature in full

Date statement completed

Medical Examination Report

Instructions:

This form is to be used in conjunction with the Medical History Statement to evaluate a candidate's qualifications for the position of entry-level law enforcement officer. The form is divided into two parts. Part A is to be completed by the examining physician; Part B the hiring authority.

Part A (Completed by the Examining Physician)

Section I: Examination results: Use this section to records all notes and test results from the medical examination. Prior to examining the candidate: (1) review the candidate's medical history Statement; and (2) make sure that you are familiar with the relevant job demands and working conditions of the specific position for which the candidate is being considered. If not available, seek this information from the hiring authority.

Section II: Candidate Assessment:

This section consists of a series of questions, the answers to which are intended to provide the hiring authority with the most useful information possible upon which to base the ultimate employment decision.

Candidate's Name (Last, First, MI)

«LastName», «FirstName»

Date of Birth (Month, Day, Year) «birthdate» | Height (without shoes) | Weight (without shoes and coat)

☐Male ☐ Female

PART A, SECTION 1: EXAMINATION RESULTS (To be completed by Licensed Examining Physician)

VISION (Snellen Notation) ☐ Glasses ☐ Contacts							CV	Hearing	
	Uncorrected		Corrected		Color Vision	Peripheral Vision	BP: Sitting	Right	Left
	FAR	NEAR	FAR	NEAR					
Right						Right:		500	
								1000	
								2000	
Left					Other Vision Test		Pulse:	3000	
						Left:		4000	
Both								6000	
								8000	

Checklist	Normal	Abnormal	Detailed description of abnormal findings an supplementary testing
SKIN			
Color/Texture (lesions, Scars)			
HEAD/EYES			
Corneas (RK Scars)			
Pupils / Light Reaction			
Fundi			
EOM			
EARS/NOSE/THROAT/MOUTH			
Pinna/Canal/TM			
Nasal Septum/Mucosa			
Teeth./Gums			
Tongue/Palate			
NECK/NODES			
Bruit			
ROM			
Thyroid			
Neck Nodes			
Inguinal/Axillary Nodes			
CHEST/LUNGS			
Auscultation			
Breasts (females age ≥ 35)			

CARDIOVASCULAR			
Pulses: Radial, Femoral, D. Pedis, P. Tibial			
Apex Impulse			
Heart Sounds (murmurs)			
Rate and Rhythm			
ABDOMEN			
Hernia			
Bowel Sounds (Bruits)			
Liver/Kidney/Spleen			
Masses			
MUSCULOSKELETAL – Upper Ext			
Shoulder ROM			
Shoulder Apprehension Test			
Grip Strength			
BACK			
Heel/Toe Walk			
Forward Flexion			
Palpation			
Inspection			
Passive SLR			
KNEES			
Squat			
Duck-Walk			
Inspection			
Thigh circumference			
Lachman Test			
Collateral Stability			
Patellar Apprehension			
One Leg Hop for Distance			
NERVOUS SYSTEM			
Tremor			
Finger to Nose			
Rhomberg			
Reflexes			
Gait			
Vibration/Toes			
GENITALIA/RECTAL			
(Note: Recent examination and test results from candidate's private MD are permissible.)			
Rectal			
Male: Penis			
Scrotum/Testes (Hernia)			
LABORATORY FINDINGS			
CBC			
Chemistry Panel			
Urinalysis			
EST			
Spirometry			
CXR (smokers ≥45)			
PPD Mantoux			
Lot# / Exp date			
Site:			

SUMMARY OF FINDINGS

Print Name	Signature of Licensed Examining Physician	Address	Date
		9270 Bay Plaza Blvd, Suite 620 Tampa, FL 33619	

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 307
Policy: Definition of "In The Service" Pension Coverage
Eff. Date: 05/13/80 03/08/83 06/14/88 06/12/90 06/14/94 08/26/03 11/18/04 02/24/05 09/22/05 08/25/11 09/22/11 02/22/17
Ref: Board Minutes, Pension Contract Sections 7 and 8

POLICY:

1) PURPOSE: To define which activities are considered in the service or occurring while in the discharge of the duties of a Tampa firefighter or police officer (line-of-duty or LOD) for the purpose of assisting with duty-related disability and death claims.

2) PROCEDURES:
   a. Any authorized activity performed while in the discharge of the duties of a Tampa firefighter or police officer, including while acting in the capacity of a sworn firefighter or police officer and while off-duty, shall be considered in-the-service (LOD), provided there is no evidence of gross negligence. It shall be the responsibility of the member to report instances of injury, disease, or disability to the department in which the member is employed in accordance with that department's rules and regulations. Failure to follow departmental procedures could prevent such activities from being considered "in the service."

3) DEFINITIONS:
   a. Authorized activity or work: The terms "authorized activity" or "work" shall mean any performance of duty in response to the lawful directive of a supervisor; or as provided for in departmental rules, regulations, and standard operating guidelines or procedures; or in response to an emergency involving an imminent threat to human life, safety, or property; and that comply with Florida Statute 440.091. This may include instances when a member is acting in the capacity of a sworn firefighter or police officer while off-duty or on-call or instances of portal-to-portal coverage, as defined in this policy, provided all other conditions of this policy are met.

   b. Gross negligence: The term "gross negligence" shall mean a conscious and voluntary disregard of the need to use reasonable care, which is likely to cause foreseeable grave injury or harm to persons, property, or both. This shall include the use of any alcoholic beverages, drugs, narcotics, medication other than that prescribed to the member, and or any other substance that could impair the member regardless of actual impairment or any intentional self-inflicted injury or death. The Board of Trustees (Board), with input from Board counsel, shall make the final determination of whether an instance of gross negligence has occurred.

   c. Portal-to-portal coverage: The term "portal-to-portal coverage" shall mean travel to start scheduled work and travel from work to home at the conclusion of scheduled work as a Tampa firefighter or police officer regardless of the mode of transportation, provided the following conditions are met:

i. The route of travel shall be a direct route between home and work or work and home; or
ii. Except for carpooling stops with other plan members, the route of travel from work to the first stop (e.g. from work to a gym, school, or day care center) or from the last stop to work (e.g. from a restaurant, school, or day care center to work); or
iii. A direct route from regular duty work to authorized extra duty service, or a direct route from authorized extra duty service to regular duty work; or
iv. A direct route from home to the authorized extra duty location to pick up a department vehicle for an authorized extra duty assignment, or a direct route from the authorized extra duty location to drop off a department vehicle from an authorized extra duty assignment to home if the authorized extra duty assignment requires or permits a department vehicle not currently assigned to the firefighter or police officer and the department vehicle must be picked up for the authorized extra duty assignment.

Chairman

K:\POLICIES\307 Definition of In the Service Pension Coverage.docx

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 401
Policy: Medical Board Makeup and Duties
Eff. Date: 02/24/87 10/25/88 04/13/93 05/09/95 04/09/96 09/27/17
Ref: Board Minutes

POLICY:

An **Admission/Review Medical Board** and a **Disability Medical Board** shall be established for purposes of performing specific types of medical examinations and other medical related services required by the Board of Trustees. All Medical Board members must be in good standing in the State of Florida, or the state in which the evaluation is made, to perform the medical examination and services requested.

Makeup and Duties of Admission/Review Medical Board

The Admission/Review Medical Board shall consist of three (3) licensed physicians, to be selected by the Director of the Medical Board.
The Admission/Review Medical Board shall perform the following medical services:

Administer required post-offer pre-employment and pre-admission physical examinations to applicants for employment in accordance with the California Peace Officers Standards and Training (POST) guidelines for police officers, National Fire Protection Association (NFPA) 1581 guidelines for firefighters, American College of Occupational and Environmental Medicine (ACOEM) Guidelines, and other pertinent guidelines.

Perform return to duty assessment examinations as requested by the Board of Trustees.

Perform additional services as requested by the Board of Trustees.

The Admission/Review Medical Board shall have the authority to refer an individual to the Disability Medical Board for evaluation, subject to approval by the Board of Trustees.

Makeup and Duties of Disability Medical Board (Initial and Reevaluation)

The Disability Medical Board shall consist of three (3) licensed specialists in the related field of an individual's disability, recommended by the Director of the Medical Board and approved by the Board of Trustees.

The Director of the Medical Board shall not be an examining member of the Disability Medical Board (Initial or Reevaluation) but shall present the results of initial disability evaluations by the Disability Medical Board in person to the Board of Trustees.

The Disability Medical Board shall perform the following medical services:

Perform disability evaluations as requested by the Board of Trustees.

Perform re-evaluations of disability retirees to determine continued disability.

The Medical Director will be provided with the disability package also provided to the Board of Trustees by the pension office, and any additional information upon his request.

The Director of the Medical Board shall select three examining specialists (Disability Medical Board) to evaluate the applicant and submit their names to the Pension Board for approval. If the

specialists are approved, the Pension Office shall then schedule the applicant to be evaluated by the three independent specialists in the related disability field who have not previously examined the applicant. A cover letter and the applicant's medical records shall be forwarded to the three independent specialists.

The Disability Medical Board will be expected to examine disability retirement applicants and prepare a written medical report which shall be forwarded directly to the Director of the Medical Board and which shall include, but not be limited to:

a. An outline of the patient's present physical complaints and medical findings.

b. A statement as to whether the patient has reached maximum medical improvement or could be expected to significantly improve in the future through additional therapy, medical intervention, or surgical procedures. If additional intervention or procedures are recommended, address whether there are significant risks involved which would justify not performing them.

c. A statement of the physician's knowledge of the physical activities that are required of the patient in his/her capacity as a police officer or firefighter.

d. A statement as to whether the patient's described physical condition will preclude him/her from performing the "regular and continuous" duties of a police officer or firefighter, whether the patient has a permanent disability, and a statement outlining the reasons for the physician's conclusions.

e. A statement by the physicians indicating whether they feel the present physical condition of the patient is due to an on the job injury or some other circumstance not related to the patient's occupation.

f. A statement as to whether the physicians' conclusions are based solely on objective evidence.

g. A statement as to whether there is some other treatment within reasonable medical probability that will restore the patient to regular and continuous duty. If yes, address the safety of this treatment.

Upon receipt of the medical reports from the Disability Medical Board, the Director of the Medical Board shall summarize the results of the evaluations in writing for the Pension Board and attend the disability hearing to respond to questions from the board, if any.

Chairman

K:\POLICIES\401 Medical Board Makeup & Duties.docx

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 402		
Policy: Procedures for Applying for Disability Retirement		
Eff. Date: 02/26/80	07/14/81	
08/23/88	03/12/91	04/13/93
09/09/96	03/28/00	07/25/00
10/25/07	06/24/10	11/20/13
09/27/17	01/30/19	
Ref: Board Minutes		

POLICY:

1. An applicant requesting retirement due to disability must complete a disability application ("application"), which can be obtained from the Pension Office.

2. The applicant will be required to sign a medical and personnel records release form and list all personal/private treating physicians, including all Worker's Compensation physicians, and former employers, so that all personal and work-related medical records and employment history records can be obtained and reviewed along with the disability application. The Trustees shall obtain all relevant information and information that may lead to relevant information at any time.

3. A medical report ("Qualifying Letter") from the applicant's treating physician must accompany the application for disability retirement. The treating physician shall be a Doctor of Medicine (M.D.) or Doctor of Osteopathy (D.O.), unless otherwise recommended by the Medical Director. The treating physician shall not be a chiropractor or psychologist. The report from the physician must address all of the questions in the form letter included with the application.

4. Upon receipt of the completed application and accompanying medical reports, the Plan Administrator and Medical Director will review for completeness. If the disability application is not complete or if the qualifying letter fails, as determined by the Plan Administrator and Medical Director, to sufficiently address **all** of the questions on the form provided to the physician, processing of the disability application shall be suspended until the pension office receives the completed documentation. The disability applicant shall be notified of the defect(s) in writing by the pension office, and it is the responsibility of the applicant to cure all defects by obtaining and providing the required information. A member must submit a complete application, including a complete qualifying letter, prior to separation and commencement of benefit payments or if involuntarily separated, within 60 days from separation. Deadlines for submitting an application may be extended on a case-by-case basis at the discretion of the Board.

5. If the applicant does not cure the defect(s) within one hundred eighty days of postmark of the notification of defect(s), the application shall be placed on the next Board's agenda following the expiration of the cure period for dismissal. Written notice shall be sent to the applicant indicating that the matter is being placed on the Board's agenda for dismissal unless good cause is shown. (Examples of good cause are death or disability of the applicant's qualifying letter doctor or a serious physical infirmity of the disability applicant, such as paralysis or coma, etc.)

6. Any Trustee or member shall have the right to submit to the Medical Board or to the Board of Trustees any documents he/she believes relevant to the application for disability benefits. Such documents must be submitted to the Plan Administrator within fourteen (14) days after the Trustees vote to refer the member to the Medical Board. The disability application and all supporting documents shall be reviewed and acknowledged by the applicant in writing prior to the records being submitted to the Medical Board. However, the Trustees may consider other evidence at the informal hearing or formal hearing.

7. After the Plan Administrator and Medical Director have determined that the required information has been received, a line-of-duty (LOD) retirement disability application will be presented to the Board of Trustees who will refer the applicant to a Disability Medical Board for evaluation as recommended by the Medical Director. Upon receipt of all medical records pertaining to a non-line-of-duty (NLOD) retirement disability application, the applicant's package of information shall be sent to a Disability Medical Board as recommended by the Medical Director. If the Medical Director or Board of Trustees deems it necessary, a NLOD disability applicant may be required to be physically evaluated by the Medical Board.

8. The Medical Director shall have the authority to refer an applicant for a psychological evaluation if deemed necessary.

9. Upon receipt of complete medical reports from the three members of the Disability Medical Board, the applicant will be scheduled for a hearing before the Pension Board.

10. In order to qualify for a disability retirement, the member has the burden of proving that the injury, disease, or disability "permanently incapacitates him, physically or mentally, from regular and continuous duty as a firefighter or police officer." In reviewing applications for disability retirement, the Board of Trustees shall place greater weight on objective medical evidence than on subjective complaints. Pursuant to Florida Statutes 175.191(3) and 185.18(3), no firefighter or police officer shall be entitled to a disability retirement if: 1) the disability is a result of excessive and habitual use of drugs, intoxicants, or narcotics; 2) the injury or disease was sustained while willfully and illegally participating in fights, riots, civil insurrections or while committing a crime; 3) the injury or disease was sustained while serving in any armed forces; 4) the injury or disease was sustained after employment has terminated; or 5) the injury or disease was sustained while working for anyone other than the City and arising out of such employment.

11. In determining whether or not the applicant is permanently incapacitated, the Board of Trustees will consider whether or not the applicant has reached maximum medical improvement or could be expected to significantly improve in the future. In doing so, the Board of Trustees has the right to consider whether recommended treatment,

within reasonable medical probability will restore the applicant to regular and continuous duty as a firefighter or police officer.

Members who refuse or fail to complete recommended medical treatment will be considered to have not reached maximum medical improvement or to be only "temporarily" disabled. Recommended medical treatment is that medical treatment, which is reasonably and safely available to correct the disability and has been recommended by the treating physician and/or more than one member of the Medical Board. This policy does not require any member to undergo surgery.

However, the Board recognizes that in certain severe circumstances, the applicant may not have reached maximum medical improvement, but may be permanently incapacitated if it is determined that even after any expected or possible improvement, the member will still be permanently incapacitated from the regular and continuous duties of a firefighter or police officer.

12. After the Board of Trustees reviews and votes on the member's application for disability retirement, the Board's decision and detailed reasons for the decision will be provided to the applicant in writing via **certified mail** by the Board's attorney, and will include information regarding the applicant's right to a Full Hearing before the Pension Board and what is required to arrange for a rehearing, if applicable.

13. If the Pension Board denies a line-of-duty disability retirement, the applicant may waive his/her right to a line-of-duty disability retirement and convert his/her application to a non-line-of-duty disability retirement, if eligible. The Pension Board may, at its discretion, review and vote on the non-line-of-duty application immediately or postpone it to a future board meeting.

14. If the Pension Board approves the disability retirement, the effective date of benefits shall be the last day on which the member was entitled to receive pensionable earnings, regardless of the date the Trustees by vote determined that the member is disabled or permanently incapacitated from regular and continuous duty as a firefighter or police officer. Pensionable earnings shall be in compliance with the pension contract and Florida Statutes.

15. Provided that a completed application has been received by the pension office, if an applicant for disability retirement dies prior to the consideration of the application by the Board, the Board may consider and act on the application and, if granted, award benefits to the member's lawful survivor retroactive to the member's last date on the City payroll and any applicable death benefits thereafter.

Gregory L. Lind
Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 409
Policy: Reevaluation, Post-retirement Employment, and Notices of Disability Pensioner Reemployment or Physical Activities
Eff. Date: 04/24/08 04/22/10 10/27/11 10/26/16
Ref: Board Minutes, Legal Opinion 4/17/2008, Pension Contract Sections 3, 5, 5h, 7, 13, 16 & 21

POLICY:

A. PURPOSE: The purpose of this policy is to provide a method for the reexamination of certain disability retirees, to establish a reporting process for certain disability retirees who have regained full health, and for notices regarding certain disability retirees who have accepted other employment that requires certification as a firefighter or police officer, or are otherwise engaging in activities that are seemingly inconsistent with their disabilities. This policy also establishes a consistent evaluation process for those certain disability pensioners who may be again capable of performing his or her full duties in the Tampa Police or Fire Department.

The provisions of this policy shall apply whenever the disability retiree is reemployed in any profession covered by the Fund, whether or not it is the same profession in which the disability retiree previously worked for the City of Tampa.

As used herein, the phrase "certain disability retirees" means those disability retirees who would not yet be eligible for normal retirement, as provided for in Section 7(A) of the pension contract, if they had not become disabled and had kept working as firefighters or police officers for the City of Tampa.

B. PROCESS FOR DISABILITY RE-EVALUATIONS

1. **Procedures for re-evaluation**: Certain disability retirees (line-of-duty and non-line-of-duty) shall be reevaluated for continuing disability with those retiring in even years being reevaluated in even years and those retiring in odd years being reevaluated in odd years. Prior to any routine reevaluation, the Medical Director shall review the medical records and make a recommendation as to the reasonableness of the reevaluation. The Board of Trustees shall provide written notice to the selected retiree via certified mail to their last known address informing him or her that he or she is to be re-evaluated for continuing disability and is required to complete and return the following documents within two weeks of receipt of the written notice:

   i. Retiree's Report of Continuing Disability Application
   ii. Retiree's Medical and Employment Authorization

   The selected retiree must also submit a letter from his or her personal, primary treating physician for condition of disability attesting to continuing disability to the Board of Trustees within 60 days of receipt of the written notice. The physician's letter must conform to the specific guidelines contained in the sample

letter with directions on how to complete the letter. The pension board shall pay the cost of obtaining the letter from the disability pensioner's physician up to $200.00, and any cost in excess of $200.00 shall be the personal responsibility of the disability pensioner. For payment by the pension board, the physician shall submit an invoice directly to the F&P pension office as per the instructions contained in the letter.

Failure to provide the required information within the specified time limits may result in the retiree having his or her pension benefits held in the pension office until he or she complies.

2. **Records Collection and Review**:

   a. The plan administrator shall review the documents provided by the retiree and the retiree's treating physician for completeness. If the application is considered complete, the pension office shall obtain all medical and employment records for the prior two years listed by the disability pensioner in his or her application, as well as any medical records not disclosed which are referenced elsewhere in the medical records. If the application is considered incomplete, the pension office will request additional information from the retiree and/or his or her treating physician until the deficiencies are satisfied.

   b. The accumulated records shall be forwarded to the Medical Director for review and evaluation. If the Medical Director believes that more information is needed, the Medical Director will request it. The Medical Director shall evaluate the provided documentation and recommend to the Board of Trustees as to whether or not they should be referred to a three-member medical board for re-evaluation.

      i. If the Medical Director makes a determination that a disability retiree should be re-evaluated by a medical board, the retiree will be re-evaluated by three licensed specialists in the related field of the individual's disability, as recommended by the Medical Director and approved by the Board of Trustees, who are in good standing in the State of Florida to perform certain medical examinations before any decision is made by the Board of Trustees. If a retiree is out of state, an out of state medical board will be designated unless the Board determines the need to have a retiree examined by a medical board comprised of three physicians who are in the Tampa Bay area. If the Board determines that a retiree living out of state should be examined in the Tampa Bay area, the Board will be responsible for paying for the retiree's expense of traveling to Tampa, Florida.

      ii. All disability retirees who are re-evaluated by a medical board shall be referred to independent evaluating specialists who have not evaluated them in the past. The F&P pension office shall schedule appointments for disability retirees and notify them of same.

iii. The re-evaluation by the medical board shall consist of a personal examination in the area of the disability for which a member was retired, including results of diagnostic testing to either prove or disprove a disability, as well as any other area of complaint of the body related to the specialist's field.

iv. The medical board shall investigate all essential statements or certificates made by or on behalf of the retired member and shall report in writing to the Board of Trustees its conclusions and recommendations, which shall specifically include:

1) An outline of the patient's present physical/mental complaints and medical findings.

2) A statement as to whether the patient continues to have a permanent physical/mental disability.

3) The pertinent findings present on physical/psychological examination or review of other medical information.

4) A statement as to whether the patient's above described physical/mental condition continues to preclude him or her from performing regular and continuous duties as a police officer or firefighter.

5) If it is felt that the patient can perform the regular and continuous duties of a police officer or firefighter, a statement outlining the reasons for arriving at that conclusion.

6) If it is likely that the disability pensioner could pass a new-hire physical in order to be rehired by the Tampa fire or police department.

v. If it is determined that a disability retiree is no longer disabled from performing the regular and continuous duties of a police officer or firefighter based on the condition they were retired on, the individual shall be referred by the Board of Trustees to a pre-employment/pre-admission medical board for evaluation to determine their overall physical condition.

vi. A copy of the reports of the medical board including its conclusions and recommendations shall be furnished to the Board of Trustees and to the retiree. A copy of the reports of the pre-employment/pre-admission medical board including its conclusions and recommendations shall be furnished to the Board of Trustees and to the retiree.

3. **Board Action**

a. Based on the information obtained, if the Board of Trustees initially finds that the retired member has regained his or her full health and is shown to be physically able to perform his or her duties in the fire or police department, or

that a disability pension was granted or obtained erroneously, fraudulently, or illegally for any reason, the following procedures shall be applicable:

1. The retired member will be notified by certified mail of the Board's initial and preliminary findings and conclusions, and that it intends to discontinue the disability pension. The notice shall include a summary of the factual, legal and policy grounds for the intended decision prepared by Board Counsel.

2. Following the receipt of notification contained above, the retiree may request a *full* hearing before the Board, as outlined by Board policy.

3. If the Board determines that a person has regained full health and is shown to be physically able to perform his/her duties in the fire or police department, the Board shall require the member to resume his or her position in the respective department and shall discontinue the member's pension.

4. The decision of the Board of Trustees shall be reviewable by petition for certiorari to the Thirteenth (13th) Judicial Circuit in and for Hillsborough County.

C. PROCESS FOR SELF-REPORTING AND EVALUATION OF NOTICES

1. Self-Reporting

a. Any retired member who is receiving a disability pension (line-of-duty or non-line-of-duty) who regains his or her full health and is shown by the disability pensioner, the disability pensioner's own physician, or the Fund's Medical Director or Medical Board to be physically able to perform his or her duties in the fire or police department shall notify the pension office immediately.

b. Any retired member who is receiving a disability pension (line-of-duty or non-line-of-duty) shall notify the pension office in writing immediately if he or she accepts employment which requires certification as a firefighter or law enforcement officer.

2. Notices

a. A written notice may be filed with the Board of Trustees, and must cite specific and verifiable facts, details, and information for the Board's consideration in order to be considered credible. A written notice must be signed by the reporting party.

b. A verbal notice may be reported to the Board of Trustees during a regularly scheduled Board meeting. The reporting party must complete an agenda appearance request in accordance with Board policies. A verbal notice must cite specific and verifiable facts, details, and information for the Board's consideration in order to be considered credible.

c. Generally, an anonymous notice shall not be considered by the Board of Trustees, unless there is sufficient indication of reliability to warrant further review by the Board, as determined by the Chairman. Anonymous notices are discouraged and may delay or impede the investigation due to incomplete or erroneous information.

3. Evaluation of Notices

a. Based upon the report of employment as a certified firefighter or police officer, the pension office shall request employment verification of the affected disability pensioner from his or her employer. Verification shall include copies of the disability pensioner's job application, job description (including any physical and/or certification requirements), and any other information that would help determine if he or she is working in a job that requires firefighter or law enforcement certification.

b. If the documentation reflects that the disability pensioner **is not working** a job that requires firefighter or law enforcement certification, no further action will be required, and the reporting party, if known, and the disability pensioner in question, shall be notified.

c. If the documentation reflects that the disability pensioner **is working** in a job that requires a firefighter or law enforcement certification, or that the disability pensioner is physically able to perform his or her duties as a Tampa police officer or firefighter, the Pension Office shall notify the disability pensioner in question and implement a medical records review.

4. Medical Records Review

a. The pension office shall request a current medical records release authorization and a list of all of the pensioner's health care and insurance providers for the previous two years and list of employers since the date his or her disability was granted. Failure to provide this information within 60 days of providing notification to the pension office (for self-reporting) or receiving notification from the pension office (for notices) may result in subsequent pension payments being held at the pension office until the pensioner has complied.

b. Upon receipt of the aforementioned documents, the pension office shall request the pensioner's medical records for the previous two years, as well as a copy of his or her personnel file from any employer since the date of

disability retirement and a copy of the disability pensioner's post-offer, pre-employment physical from any employer that may require certification as a firefighter or police officer.

c. The accumulated records shall be forwarded to the Medical Director for review and evaluation. If the Medical Director believes that more information is needed, the Medical Director will request it. The Medical Director shall evaluate the provided documentation and recommend to the Board of Trustees:

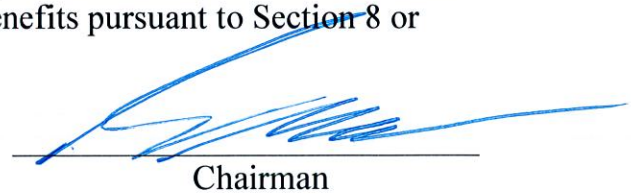
   i. that the disability pensioner in question have a physical examination conducted by the Medical Director at the Board's expense; or

   ii. that the disability pensioner in question be examined by a three member Medical Board specializing in the area of disability of the pension in question at the Board's expense; or

   iii. that no further action be taken, as the disability pensioner remains permanently incapacitated from the regular and continuous duties of a Tampa firefighter or police officer based upon the review of the medical records provided.

5. **Board Action**: Upon completion of the Records Review and/or physical examination(s), the Board of Trustees shall consider the facts and circumstances. If it appears to the Board of Trustees that the disability pensioner may no longer be disabled, the procedures in paragraphs B.2.v., B.2.vi., and B.3. above shall apply.

D. This policy shall not apply to the surviving spouse, joint annuitant, or minor children of a disabled member who are receiving survivor benefits pursuant to Section 8 or Section 9 of the Pension Contract.



Chairman

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PENSION BOARD POLICIES

FIREFIGHTERS & POLICE OFFICERS PENSION FUND OF THE CITY OF TAMPA

Policy Number: 414
Policy: Pension Estimates / Initial Pension Payments
Eff. Date: 02/15/79 02/27/79 05/08/80 11/12/99
Ref: Board Minutes

POLICY:

Pension checks shall be processed for payment at the end of the month for those employees who retire prior to the 15th of the month. A pension check may be processed for payment at the end of the following month for those employees who retire after the 15th of the month.

The Plan Administrator shall be authorized to issue a pension payment in an estimated amount (from the date of retirement to the end of the month) to new retirees if the necessary final salary information needed to compute the exact pension is not yet available. A pension adjustment shall be made the following month to bring the benefit to the exact amount after the final salary information is available for computation.

Kent E. Edwards

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 415
Policy: Overpayments
Eff. Date: 07/19/72 12/27/77 05/27/15
Ref: Board Minutes

POLICY:

I. DEFINITION: The term "pensioner" means any person in receipt of benefit from the Fund, whether the recipient is an active or retired member, former spouse of a member, survivor, or beneficiary.

II. PROCEDURE:

A. If a pensioner or pensioner's estate is overpaid for any reason, the Board of Trustees shall allow the amount owed to be repaid in six (6) monthly installments. If the pensioner or the pensioner's estate cannot reasonably repay the amount owed in six (6) monthly installments, he or she may petition the Board for an extension of time or for some other arrangement, which may be granted at the Board's discretion. Arrangements for repayment shall be made in order to avoid causing a hardship on a member who has to repay monies to the Fund.

B. Except in the case of fraud or forgery, the Board shall have the right to commence proceedings to recover benefit overpayments for a period of five (5) years following any such payment. Forged or fraudulent documents are deemed void and recovery proceedings may be commenced within five (5) years of discovery.

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 416
Policy: Post-Retirement/Cost-of-Living Adjustments
Eff. Date: 10/26/82 04/26/83 11/18/83 11/17/88 09/22/11 05/27/15
Ref: Board Minutes Legal Opinion 11/17/88

POLICY:

1. The purpose of this policy is to establish and implement eligibility criteria for Post-Retirement/Cost-of-Living Adjustments (COLAs) for retired members under the provisions of Section 23 of the pension contract.

2. In order for a retired member or a member who elects to enter DROP to receive a COLA, which occurs annually in January, the member must be off the City's payroll as an employee or have entered DROP by September 30th of the previous year.

   a. For members who retired between September 30, 1982 and January 1, 1989, COLA eligibility is based on the member separating from service by December 31st of the previous year. (Board minutes 09/12/1989)

   b. For deferred vested members who have retired but are not yet eligible to receive benefits due to age, COLA eligibility is based on when the member turns 46 and is eligible to begin receiving benefits.

3. COLAs shall be calculated on a year-to-year basis, and not in a retroactive manner, with any excess profits being carried forward to be used in the future.

Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 420
Policy: Release of Pension Benefits of Deceased Pensioner
Eff. Date: 12/15/92 11/23/99 11/27/01 10/27/11 03/25/15 10/28/15
Ref: Pension Contract, Board Minutes, Legal Opinion

POLICY:

I. PURPOSE: The purpose of this policy is to specify who is entitled to pension benefits due a deceased pensioner or plan member when he/she dies and there is no eligible surviving spouse or joint annuitant entitled to pension benefits under Section 8 or Section 9 of the Pension Contract.

II. DEFINITIONS:

A. For the purpose of this policy deceased pensioners include:

1. Pensioners receiving monthly pension benefits.

2. All vested and non-vested plan members who are actively working for the City of Tampa, who die while in service but without regard to cause, and who do not have eligible surviving spouses or joint annuitants eligible for benefits under Section 8 or Section 9 of the Pension Contract.

3. Deferred pensioners not yet entitled to benefits due to age or legal processes.

4. Eligible surviving spouses, children, or joint annuitants receiving benefits under Section 8 or Section 9 of the Pension Contract.

B. An eligible surviving spouse is a widow/widower who was married to the pensioner at the time of the pensioner's death and was EITHER

1. married to the pensioner during some period of the pensioner's employment prior to retirement, including DROP entry, OR

2. married to the pensioner when the pensioner elected the Remarriage After Retirement option, pursuant to Section 9(C)(2) of the Pension Contract and Policy 440 – Remarriage/Marriage After Retirement.

C. Pension benefits include:

1. any monthly pension benefits due the pensioner, including benefits that have accrued from the first (1st) of the month until date of death of the pensioner;

2. the balance of a ten-year-certain (10YC) benefit payable for a pensioner who elected or was otherwise covered by Option 1, under Policy 433, if any;

3. for a pensioner who elected Options 2, 3a, 3b, 3c, and 3d, under Policy 433, the difference between his or her contributions into the Fund (without interest) and:

   a. the total amount of pension benefits, including cost-of-living adjustments and 13th checks, received by a pensioner who died while retired, OR

   b. the total amount of pension benefits that accrued to the pensioner's DROP account, including cost-of-living adjustments and 13th checks, but not including investment gains/losses or administrative expenses, for a pensioner who died while in DROP;

4. any 13th check due and payable to the pensioner after his or her death;

5. the balance of a pensioner's DROP accruals, if applicable and if no Designation of Beneficiary for Accumulated DROP Benefits form is on file;

6. any other benefits due a pensioner after his or her death;

7. a refund of contributions without interest, for members or pensioners who are ineligible to receive monthly pension benefits.

III. PROCEDURES

A. When a pensioner dies and there is no eligible surviving spouse or joint annuitant entitled to pension benefits under Section 8 or Section 9 of the Pension Contract, any pension benefits due the pensioner will be released in the following order and after receipt of documentation satisfactory to the Board:

   1. To beneficiaries listed by the pensioner on a form promulgated by the Board, signed by the pensioner, and maintained in the pension office (form attached to this policy). In the case of more than one form, the latest in time controls. Any form in transit, but not yet received by the pension office at the time of a pensioner's death will be deemed invalid.

   2. To a personal representative or in the absence of a personal representative, directly to beneficiaries pursuant to a court order.

   3. In the absence of any of the documentation listed in 1 and 2, above, an order of distribution in accordance with Florida law for intestate succession will be required from a court of competent jurisdiction for estate payments with accrued pension benefits **greater than $5,000.00**. For estate payments with accrued pension benefits **less than or equal to $5,000.00**, benefits will be released upon receipt of a completed, signed, and notarized Estate Application and Payment Authorization form.

B. When a pensioner dies and there is a balance of a 10YC benefit payable to a member who elected or was otherwise covered by Option 1, under Policy 433, the Board, in its discretion may direct the commuted value of these benefits be paid in a lump sum to the pensioner's eligible recipients, as indicated above. Should the Board choose to exercise this option, the actuary will utilize the following assumptions in the calculation:

   Discount rate: Actuarially assumed rate of return of the fund in effect as of the date of the pensioner's death

   COLAs: COLAs, if any remaining, shall be forecast using the immediately preceding cost-of-living-adjustment pursuant to Section 23.

   13th check: 13th check benefit, if any, shall not be a part of the commuted value calculation and shall be paid in accordance with Section 27 of the Pension Contract and Policy 425 – 13th Check Program.

C. When a vested plan member who elected or was otherwise covered by Option 1, under Policy 433, dies non-line-of-duty while active and before reaching normal retirement age – age 46 or 20 years of credited pensionable service, the member's eligible surviving spouse or beneficiaries or estate, as indicated above, shall be entitled to receive the accrued, unreduced 10YC pension benefit payments immediately, upon application and processing of monthly survivor benefits (form attached to this policy). Upon reaching the 120th payment, the eligible surviving spouse benefit will be paid in accordance with Section 9 of the Pension Contract. If the 10YC benefit is paid to a beneficiary or estate, payments shall cease upon reaching the 120th payment.

D. If a minor child receiving benefits under Section 8 or Section 9 dies before he/she becomes ineligible for benefits, any monthly pension benefits due the minor child, including benefits that have accrued from the first (1st) of the month until date of death of the minor child, will be paid to the minor child's surviving parent. In the absence of a surviving parent, an order of distribution in accordance with Florida law for intestate succession will be required from a court of competent jurisdiction.

E. Federal income tax will be withheld at a rate of 20% (or the then applicable rate) from all payments made to a deceased pensioner's estate under paragraph A of this section. If the deceased pensioner was receiving a line-of-duty disability or death benefit, that benefit is non-taxable and federal income tax will not be withheld.

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 423
Policy: Conversion of Non-Line-of-Duty (NLOD) Disability Benefits to Longevity Benefits
Eff. Date: 11/08/94 07/11/00 11/18/04 10/27/11 04/25/18
Ref: Sections 7(A), 7(C), 9, 22 & 23 of Pension Contract; Legal Opinion 94-95; Chapter 99-01, Min. Benefits

POLICY:

1. The purpose of this policy is to establish procedures for converting a non-line-of-duty (NLOD) disability retirement benefit to a regular longevity retirement benefit.

2. A member who retires prior to reaching the age of forty-six (46) years and who has been granted a NLOD disability by the Board of Trustees may commence receiving a longevity retirement benefit pursuant to Section 7(A) of the Pension Contract, upon reaching the age of forty-six (46) years.

3. A member who makes such election must do so in writing at least thirty (30) days before reaching the age of forty-six (46) years.

4. A member who does not elect to commence receipt of a Section 7(A) longevity retirement benefit shall continue to receive a Section 7(C) NLOD disability retirement benefit with cost of living adjustments (COLAs) previously awarded and future COLAs based on the NLOD disability retirement benefit amount and the member's date of NLOD disability retirement.

5. A member who elects to commence receiving a Section 7(A) longevity retirement benefit shall have COLAs based on the longevity retirement benefit amount but using the date the member reached the age of forty-six (46) years. In effect, this resets the member's COLA class to the date of the member's 46th birthday, not the date the member was granted a NLOD disability retirement.

6. Should a member die while receiving a NLOD disability retirement benefit and before reaching the age of forty-six (46) years, the member's eligible surviving spouse or joint annuitant who would be eligible to receive the member's monthly pension benefit may make the election to convert the NLOD disability retirement benefit to a longevity retirement benefit when the deceased member would have reached age forty-six (46).

7. Since minor children of a deceased member receive a percentage of the deceased member's final year's earnings and not a percentage of the deceased member's pension, benefits payable to minor children of the deceased member are not affected by the election of the surviving spouse.

Gregory P Reed
Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 424
Policy: Deferred Retirement Option Program (DROP)
Eff. Date: 06/09/98 05/23/00 12/12/00 04/22/03 06/24/04 07/22/10 07/28/11 06/28/12 10/28/15 01/30/19
Ref: Section 26 of Pension Contract, Board Minutes

POLICY:

A. PURPOSE: The purpose of this policy is to provide a coordinated and fully documented process for applicants to enter the "Deferred Retirement Option Program" (DROP). In addition, this policy is intended to provide those associated with the process with a detailed outline of the steps, timeframes, and rules regarding DROP and the processing of applications for participation in DROP.

B. ELIGIBILITY: In order to be eligible for DROP, the member must meet the following eligibility criteria:

1. The member must have attained at least twenty (20) years of creditable pension service but no more than thirty (30) years of creditable pension service on the effective date of entry into DROP.

2. The member must meet all eligibility requirements for receipt of longevity pension benefits, pursuant to Section 7(A) or 7(D)[1], other than separation from service as a firefighter or police officer.

3. The member must properly complete the following forms:

   a. Deferred Retirement Option Program (DROP) Application/Irrevocable Written Election (hereto forth called the DROP Application);

   b. Irrevocable Notice of Employment Termination/Separation (hereto forth called the Irrevocable Notice of Separation);

   c. Election of Form of Distribution of Accumulated DROP Benefits (hereto forth called the Election of Distribution form) – OR – Distribution of Accumulated DROP Benefits Notification (hereto forth called the DROP Distribution Notification form);

   d. Designation of Beneficiary or Beneficiaries for Accumulated DROP Benefits (hereto forth called the DROP Beneficiary form);

   e. Retirement Election – Optional Forms of Payment (hereto forth called the Optional Forms of Payment form); AND

[1] Section refers to the Pension Contract. Paragraph refers to this Policy.

f. Designation of Beneficiary or Beneficiaries for Pension Benefits (hereto forth called the Estate Beneficiary Form) – OR – Estate Notification (hereto forth called the Estate Notification Form).

4. A DROP participant shall not be eligible to be elected as a member of the Board of Trustees. A trustee who enters DROP shall continue to serve as a trustee until he/she is replaced by an election held no more than forty-five (45) days after the trustee enters DROP.

C. PROCEDURES FOR APPLICATION AND ENTERING DROP:

1. In order to timely process the DROP application, members must properly complete and provide to the pension office all paperwork in paragraph B.3 at least fourteen (14) calendar days prior to the member's intended effective date of participation in or entry into DROP. Additionally, the member's pension file must contain the following items:

   a. if married, a copy of the member's marriage certificate;

   b. if divorced, a copy of the member's divorce decree(s), Marital Settlement Agreement(s), and Income Deduction Order(s) (IDO) or other court documents, if applicable;

   c. a copy of spouse's driver's license or birth certificate for spouse's date of birth verification and a copy of the spouse's social security card; AND

   d. if Option 3 (Joint Annuitant optional forms of payment) has been selected and the joint annuitant is not the member's spouse, a copy of the joint annuitant's driver's license, passport, state ID card, or birth certificate (if a minor child) for joint annuitant's date of birth verification and a copy of the joint annuitant's social security card.

   Members are encouraged to bring these items with them when they file their application for entry into DROP, in case their pension file does not already contain such items. This information is necessary for both internal and external audit and accounting requirements.

2. The effective date of a member's participation or entry into DROP will be the first day of the next pay period elected by the member, subject to receipt and approval by the Plan Administrator or designee of the forms listed in paragraph B.3. In order to preserve the COLA and 13th Check eligibility of a member and to not penalize him/her for DROP entry rules, a member whose twenty (20) years of creditable pension service occurs prior to October 1 but whose earliest possible effective date in DROP is after September 30 shall be deemed to have begun participation or entered into DROP on September 30, for the purposes of this sentence only.

3. On the effective date of a member's participation in or entry into DROP, the member shall no longer be required to make contributions to the Pension Fund pursuant to Section 2.

4. Once a member begins participation in DROP, such participation shall be irrevocable and the member may participate in DROP only once. **Completion of the DROP Application/Irrevocable Written Election form shall constitute participation in DROP regardless of the DROP entry date.** A member may participate in the DROP no more than five (5) years from entry into DROP but not after attaining thirty (30) years of creditable pension service as a firefighter or police officer with the City of Tampa, whichever comes first. Any retired member rejoining the plan after separation from service shall have their benefit payments suspended during the period of reemployment and may not participate in DROP a second time.

5. After receipt and approval of the DROP Application and Irrevocable Notice of Separation, the staff of the pension office will:

   a. arrange for a cessation of the member's pension contributions with the appropriate departments of the City of Tampa;

   b. notify the member of approval including the exact calculation of the amount of the monthly installments to be accrued as DROP benefits; AND

   c. arrange for the separate accounting of the member's accumulated DROP benefits.

6. No application shall be acted upon until all required documentation is received in the pension office.

D. CALCULATION AND ACCRUAL OF PENSION BENEFITS WHILE IN DROP:

1. In calculating a DROP participant's monthly pension installments pursuant to Section 7, the participant's average earnings and creditable service shall be calculated and fixed as of the day before the member's participation in or entry into the DROP. The amount of the monthly installments calculated pursuant to Section 7(A) or Section 7(D) shall be ratified by the Board of Trustees at a properly noticed Board meeting.

2. DROP participants shall not be entitled to any additional improvements in pension benefits calculated pursuant to Section 7(A) or Section 7(D), including, but not limited to, improvements attributable to age, rank, increase in pay, or years of service, unless such improvement in pension benefits was collectively bargained and agreed to between the City and certified bargaining agents for firefighters and police officers and enacted by the Florida legislature that specifically applies to DROP participants working as a sworn firefighter or police officer in the City of Tampa as of a date certain.

3. A DROP participant shall not be entitled to receive a disability pension pursuant to Section 7(B) or Section 7(C) regardless of the date, cause, or nature of the disability. Provided however, a member who has applied for disability retirement pursuant to Section 7(B) and who has submitted a disability application, which has been deemed complete by the Plan Administrator, may make application for participation or entry into DROP without forfeiting his/her right to obtain a disability retirement pursuant to Section 7(B). If such member is subsequently granted disability retirement benefits pursuant to Section 7(B), the member and the City must pay the appropriate pension contributions with interest from the date of entry into DROP until the effective date of disability retirement. Additionally, the member shall forfeit any accumulated DROP benefits and the member shall be paid from the Pension Fund the monthly installments the member is entitled to receive pursuant to Section 7(B), cost of living adjustments pursuant to Section 23, and the 13th check benefit pursuant to Section 27.

4. All periodic and non-periodic accruals of DROP benefits, including cost of living adjustments and 13th Check benefits, if any, will be made as of the last business day of the month.

5. The member's DROP accumulation shall be calculated as follows:

   a. The amount of monthly pension installments to which the member would have been entitled to receive pursuant to Section 7(A) or Section 7(D) from the DROP benefit calculation date (the date the member enters into DROP) to the end of the member's DROP calculation period (the date the member separates from service);

   b. The amount of any cost of living adjustments pursuant to Section 23 credited after the date the member enters into DROP and before the date the member separates from service;

   c. The amount of the 13th check, if any, pursuant to Section 27 credited after the date the member enters into DROP and before the date the member separates from service; AND

   d. Interest accumulated annually, whether positive or negative, during the DROP calculation period, less the cost of administering the DROP, at either:

      i) A rate reflecting the Fund's net investment performance, as determined by the Board of Trustees, OR

      ii) A rate reflecting a low-risk variable rate selected annually by the Board of Trustees in its sole discretion.

6. The accumulated DROP benefits including any interest thereon, shall not be subject to assignment, garnishment, execution, attachment, or to any legal process whatsoever, except income deduction orders as provided in section 61.1301, Florida Statutes, and federal income tax levies.

7. The Board of Trustees shall each year prior to December 31 (12/31) provide to the DROP participant or, if deceased, designated beneficiary(ies) or authorized individuals pursuant to Board policy, an accounting of the net accumulated DROP benefits (including interest and administrative expenses) for the year ending on September 30th (9/30).

8. The DROP program is a form of benefit accrual under the defined benefit plan. Pursuant to Section 24 and Board Policy, the benefit payable under the DROP shall be limited as provided under Section 415(b) of the Internal Revenue Code.

E. PROCEDURES WHILE IN DROP:

1. A DROP participant cannot change his/her Optional Forms of Payment election once DROP accruals commence.

2. Should a DROP participant desire to change his/her designated beneficiary(ies) or should a designated beneficiary die, the DROP participant must execute a new DROP Beneficiary form. The effect of the DROP Beneficiary form is to revoke all prior designations of beneficiary(ies) for accumulated DROP benefits.

3. Pursuant to Florida law, a dissolution of marriage immediately invalidates all prior survivorship designations. This includes all beneficiary forms and any joint annuitant designation under Options 3a, 3b, 3c, and 3d, whereby the beneficiary or joint annuitant is the now-former spouse. Members must notify the Fund and make a new election or reaffirm the previous election.

4. The surviving spouse or minor children of a DROP participant who loses his/her life or later dies from injuries or causes occurring while in the discharge of his/her duties shall not be entitled to benefits pursuant to Section 8.

5. After the death of the DROP participant, pension benefits shall be paid as required by Section 9, provided however that a surviving spouse who was not married to the member during some period of the member's employment as a firefighter or police officer prior to the date of the member's entry into DROP shall not be entitled to Section 9 benefits.

6. A DROP participant shall not be entitled to any loan of any accumulated DROP benefits.

F. INTEREST: A member who participates in the DROP shall accumulate interest pursuant to Section 26(D), as follows:

a. Interest and costs for DROP shall be determined by the Board of Trustees, without employer discretion.

b. Upon election to enter DROP, the member shall be notified of the manner in which interest shall accumulate during the DROP calculation period, using one

of two methods as selected by the member: (1) a rate reflecting the Fund's net investment performance, as determined by the Board of Trustees, OR (2) a rate reflecting a low-risk variable rate vehicle selected annually by the Board of Trustees in its sole discretion.

c. Interest shall accumulate annually, whether positive or negative, during the DROP calculation period, less the cost of administering the DROP.

d. In any event, the DROP interest accumulation shall satisfy the definitely determinable requirements under Section 401(a)(25) of the Internal Revenue Code and Treasury Regulations section 1.401-1(b)(1)(i).

1. For those DROP participants electing the Fund return, the annual interest accumulation to reflect the Fund's net investment performance shall be calculated as of September 30th of each year by dividing the Fund's annual net investment income, whether positive or negative (loss), for the fiscal year ending September 30th (numerator) by the net assets available for investment at the beginning of the fiscal year (denominator).

   a. Numerator calculation: The Fund's annual net investment income, whether positive or negative (loss), for the fiscal year ending September 30th (numerator) shall be the gross return of all investments, including both realized and unrealized gains, plus interest, dividends, or other distributions, less all investment management fees, commissions, investment and performance consultant fees, and custodial fees and costs, as reflected in the change in the market value of Fund assets for such fiscal year reported in the Fund's Annual Financial Report. Specifically excluded from net assets available for investment (numerator) are the Fund's petty cash account and the remaining un-depreciated cost of the pension office and related equipment.

   b. Denominator calculation: Positive cash flow must be added to and negative cash flow must be subtracted from the net assets available for investment at the beginning of the fiscal year to determine the average investment net assets available for investment. Therefore, the current year's average net cash flow from the noninvestment activities (contributions, benefits paid to participants and administrative expenses) is added to or subtracted from the denominator.

2. For DROP participants electing the low-risk variable rate option, the annual interest accumulation to reflect the low-risk variable rate shall be the annualized rate actually earned for the fiscal year on the low-risk, variable rate option vehicle selected by the Board of Trustees based upon the advice of the investment manager.

3. The interest rate elected by the member will be applied to each DROP participant's average annual account balance for the year ending September 30th. The investment return will be calculated and compounded annually. In the instance of DROP participation for less than a full fiscal year because of an interim program entry date, the interest rate elected by the member will be applied to the participant's average

annual account balance calculated on a daily pro rata basis, using a 365-day year (or 366 days for a leap year).

4. A DROP participant may elect the interest rate option upon DROP entry on or once per year thereafter during the DROP participation period of October 1-31 for the fiscal year just begun October 1. If a DROP participant fails to make a valid election upon entering the DROP, the Fund interest rate shall be applied. If a DROP participant fails to make a valid election in a subsequent Plan Year, the election for the then-current Plan Year shall be applied.

5. Should a member's DROP participation end (separation or lawful discharge from service, or death) at some time other than September 30, the interest rate elected by the member for the last year shall not be determined until the following September 30.

6. Once a DROP participant separates from service, no further interest shall be payable after September 30th (9/30) following separation. Provided however, the DROP participant's accumulated balance will earn short term interest during the DROP balance calculation period (10/1 to date of distribution), but for no more than ninety (90) days. The short term interest rate will be equal to the Fund's cash and cash equivalent rate in effect at September 30th.

G. ADMINISTRATIVE COSTS: To compensate the pension fund for the expenses of administering and operating the DROP, each member's accumulated DROP benefits shall be charged an annual administrative fee, which shall be reviewed and subject to increase or decrease annually. An administrative expense charge shall be deducted from the DROP participant's accumulated DROP benefits as of September 30 of each year until all accumulated DROP benefits are distributed. The administrative expense may be changed annually at the discretion of the Board of Trustees.

1. The annual administrative fee charged to a DROP participant's account shall be determined annually by the Board of Trustees as a specified percentage of the DROP account balance or as a flat dollar amount, whichever method shall be selected by the Board in its sole discretion, developed by dividing the total DROP expense, which is the cost to maintain/administer the DROP program throughout the fiscal year, by the total DROP balance of participant accounts at the end of the fiscal year. The cost to maintain/administer the DROP program throughout the fiscal year shall be the sum of any separate custodial fee charges on the DROP accounts charged by the custodial bank, any separate accounting fee charges on the DROP accounts charged by an accounting firm, the pro rata share of Fund staff costs (determined by base hourly rate) for DROP related work, and any other separate administrative fee charges on the DROP accounts charged by a service provider for the fiscal year.

H. EXITING FROM DROP AND DISTRIBUTION OF ACCUMULATED DROP BENEFITS:

1. A DROP participant must separate from service by midnight local time on the final day of DROP participation as listed on the signed, notarized Irrevocable Notice of

Separation Form. When a DROP participant separates from service, the DROP participant's entire DROP benefit for the month of separation will be accrued to the DROP account. Pension benefits will begin being paid to the pensioner the month following the member's separation from service.

2. In order to qualify for the annual distribution, which occurs in December no later than 12/31, a DROP participant must separate from service by September 30.

3. When a DROP participant separates from service during the month of June and is eligible to receive a 13th check benefit during the same month, that 13th check benefit will be accrued to the participant's DROP account.

4. At least two (2) weeks (14 calendar days) prior to the end of the member's DROP participation (or separation from service) the member must give the pension office written notice of such separation in order to timely receive monthly pension benefits; and must complete other appropriate paperwork including deductions for income tax withholding, health insurance, life insurance, direct deposit, etc.

5. Upon termination from employment with the City, the monthly pension installments pursuant to Section 7, the cost of living adjustments pursuant to Section 23, the 13th check benefit pursuant to Section 27, shall be paid to the member, and upon death of the member, monthly pension installments shall be paid pursuant to Section 9, cost of living adjustments pursuant to Section 23, and 13th check benefits pursuant to Section 27.

6. A DROP participant who is involuntarily discharged who seeks review of such discharge shall not be entitled to receipt of pension benefits or benefits accumulated while in the DROP until after it has been determined that the discharge was lawful.

7. At least thirty (30) days prior to the end of the member's DROP calculation period (the date the member separates from service), the member is encouraged to sign and file with the Pension Office an Election of Distribution form.

8. The form of distribution elected by a DROP participant or surviving beneficiary must comply with the applicable requirements of the Internal Revenue Code.

9. A DROP participant may change or modify his/her election on the Election of Distribution form at any time prior to September 30th (9/30) coincident with or following separation from service by executing an Election of Distribution form and delivering such to the pension office.

10. In the event the DROP participant fails to properly execute an Election of Distribution form by September 30th (9/30) coincident with or following separation from service, the balance of the DROP participant's accumulated DROP benefits shall remain in the plan, without any additional interest after the typical annual distribution date of 12/31, until a properly completed Election of Distribution form has been received by the pension office. Distribution will occur no later than 180 days after receipt of the

delayed properly executed form, but no sooner than 3/31. Note: This paragraph shall not be used in an attempt to avoid constructive receipt under the Internal Revenue Code.

11. No accumulated DROP benefits will be distributed to a DROP participant until the DROP participant has separated from service and after the DROP statement components (DROP returns, DROP administrative fee, etc.) for the fiscal year just ended has been approved by the Board of Trustees, but no earlier than the time set forth in paragraphs 2 and 12 of this section.

12. Since neither the Fund's annual net investment performance nor the low risk variable rate can be appropriately calculated until after September 30th (9/30), the distribution of a DROP participant's accumulated DROP benefits will occur within forty-five (45) days after the Trustees determine the Fund's annual net investment performance and low risk variable rate, which is generally at their November board meeting.

13. After termination of employment with the City, the accumulated DROP benefits at the option of the terminated DROP participant, or if deceased, such participant's designated beneficiary or beneficiaries, shall be distributed at the time set forth in paragraphs 2 and12 of this section as follows:

    a. Rollover of the balance to another eligible retirement plan (as permitted by law) such as an IRA, annuity from an insurance company, or such other rollover vehicle, OR

    b. A full and single lump sum distribution of the balance to the DROP participant, OR

    c. Partial rollover to another eligible plan and partial lump sum distribution to the DROP participant.

14. The distribution of the net accumulated DROP benefits may be subject to penalties, income tax withholdings, or other withholdings or liabilities required by law. The Board of Trustees and staff shall not advise members of the federal tax consequences of an election related to the DROP. DROP participants are strongly encouraged to seek their own personal tax and financial planning advice.

I. DISTRIBUTION OF ACCUMULATED DROP BENEFITS OF A DECEASED DROP PARTICIPANT:

1. If a DROP participant dies while in DROP or prior to the distribution of his/her accumulated DROP benefits, the named beneficiary(ies) on his/her DROP Beneficiary form, shall be entitled to receive at the time set forth in paragraphs H.2 and H.12 the benefits accumulated during the DROP calculation period. If the DROP participant did not have a valid DROP Beneficiary form on file, the balance of his/her accumulated DROP benefits will be paid pursuant to the Board's policy on estate payments and as set forth on paragraphs H.2 and H.12. Notwithstanding the provisions of paragraphs

H.2 and H.12, if a DROP participant dies before distribution, the appropriate individual(s) may elect to:

a. receive the distribution with interest as calculated in section F of this policy and paid at the time set forth in paragraphs H.2 and H.12; OR

b. if all eligible recipients agree, receive distribution within thirty (30) days after approval by Board of Trustees of the application for early distribution, provided however, the DROP participant's accumulated balance to be paid will be:

   i) the amount on the participant's previous annual valuation (9/30);

   ii) monthly pension installments, cost of living adjustments and 13th check benefit, if any, credited since the participant's previous annual valuation (9/30) and date of death; and

   iii) short term interest at the Fund's cash and cash equivalent rate for the previous month of September on the amounts in (a) and (b) above, provided however, the amount of the short term interest shall be paid for no more than forty-five (45) days after date of death.

2. In order to receive a deceased participant's DROP distribution, the designated beneficiary(ies) or other authorized individual must properly execute and file with the pension office an Election of Distribution form, or the balance of the DROP participant's net accumulated DROP benefits shall remain in the plan, without any additional interest after the typical annual distribution date of 12/31, until a properly completed Election of Distribution form has been received by the pension office. Distribution will occur no later than 180 days after receipt of the delayed properly executed form but no sooner than 3/31. Note: This paragraph shall not be used in an attempt to avoid constructive receipt under the Internal Revenue Code.

3. The Board of Trustees will not ratify the distribution of any accumulated DROP benefits to a designated beneficiary or authorized individual until such time as the pension office receives sufficient documentation of the DROP participant's death.

Gregory P. Rud
Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 425		
Policy: 13th Check Program		
Eff. Date: 10/27/98	11/24/98	
06/13/00	03/28/02	04/22/03
08/26/04	05/22/08	07/24/08
05/26/11	07/22/15	
Ref: Sec. 27 of Pension Contract - Board Minutes Chapter 112, Florida Statutes		

POLICY:

I. PURPOSE: The purpose of this policy is to implement the provisions of Section 27[1] entitled "13th Check Program."

II. AUTHORITY: Section 27 entitled "13th Check Program" provides that the Board of Trustees shall make rules as are necessary for the effective and efficient administration of the 13th Check Program.

III. ELIGIBILITY: The following persons shall be eligible for the supplemental pension distribution payable in June of each year, provided that the funding criteria in paragraph IV have been met:

A. Retirees and DROP participants who received or were eligible to receive pension benefits for one year as of the October 1 prior to the June 30 13th Check distribution.

Example: A member who retired or entered DROP on 05/27/2013 would receive for his/her first 13th Check in June 2015, because he/she received or was eligible to receive pension benefits for one year as of 10/01/2014. He/she would not be eligible for a 13th Check in June 2014, because he/she was not receiving or was not eligible to receive benefits for one year as of 10/01/2013.

B. Surviving spouses eligible for pension benefits under Section 8 or 9 of the pension contract who received or were eligible to receive pension benefits for one year as of the October 1 prior to the June 30 13th Check distribution.

Example: A surviving spouse who began receiving pension benefits on 05/27/2013 would receive his/her first 13th Check in June 2015, because he/she received or was eligible to receive pension benefits for one year as of 10/01/2014.

C. Joint annuitants who were married to the retiree at the time of the retiree's death, who were eligible for pension benefits under Section 8 or 9 of the pension contract, and who received or were eligible to receive pension benefits for one year as of the October 1 prior to the June 30 13th Check distribution.

[1] Section refers to the Pension Contract. Paragraph refers to this Policy.

Example: A joint annuitant who was married to a retiree at the time of the retiree's death began receiving pension benefits on 05/27/2013 would receive his/her first 13th Check in June 2015, because he/she received or was eligible to receive pension benefits for one year as of 10/01/2014.

D. Estate and beneficiary payments of 13th Checks due deceased retirees, eligible surviving spouses, or eligible joint annuitants will be paid pursuant to board policy entitled Release of Pension Benefits of Deceased Pensioner.

IV. FUNDING CRITERIA AND RATE OF RETURN: Effective October 1, 2007, the 13th Check shall be funded by "investment returns in excess of 10% (limited to 1%) on the base plan plus the Post Retirement Adjustment Account market value of assets at each fiscal year ending September 30." Pursuant to the requirements of Section 112.61, Florida Statutes, "actuarial experience may be used to fund additional benefits, provided that the present value of such benefits does not exceed the net actuarial experience accumulated from all sources of gains and losses." Additionally, no 13th Check additional benefit shall be paid unless the net actuarial experience accumulated from all sources of gains and losses is positive.

A. Since the 13th Check is an additional benefit funded by excess investment returns, before payment of the 13th Check benefit may be made, the actuary must certify that the net actuarial experience accumulated from all sources of gains and losses is positive. The actuary shall furnish a written report concerning the net actuarial experience accumulated from all sources of gains and losses. Contract negotiations with the fund's actuary shall specify the date this report is due to the Fund, which shall be no later than the May board meeting.

B. The determination of whether a 13th Check is payable is independent of any make-up of investment losses to the base plan as set forth in P&P 713.

C. The rate of investment return for the 13th Check determination shall be the net investment return based on the language of the most current Pension Contract, as determined by the Fund's actuary.

D. Based on certification from the Fund's actuary that the amount of the payment is funded on a sound actuarial basis as required by Section 14, Article X of the State Constitution, the Board of Trustees shall establish the amount of the 13th Check no later than May 31 for the June 30 distribution, provided that there are "investment returns in excess of 10% (limited to 1%) on the base plan plus the Post Retirement Adjustment Account market value of assets at each fiscal year ending September 30." The phrase "sound actuarial basis as required by Section 14, Article X of the State Constitution," means that the retirement program must be funded in such a way that the retirement fund is able to meet its continuing obligations as and when they mature.

E. In summary, a 13th Check is payable for a fiscal year only when all of the following conditions are met:

1. There have been investment returns in excess of 10% (limited to 1%) on the base plan plus the Post Retirement Adjustment Account market value of assets at the fiscal year ending September 30; AND

2. The amount of the benefit is definitely determinable (within the meaning of the Internal Revenue Code); AND

3. The Fund's actuary certifies that the amount of the payment will be funded on a sound actuarial basis, and that the allocation does not exceed the amount of cumulative actuarial experience gains in the plan.

V. AMOUNT OF THE 13TH CHECK: The amount of the 13th Check shall be determined as follows:

1. The amount of the 13th Check shall be the same for all retired members and DROP participants, regardless of years of service, age, years retired or years in DROP, or amount of monthly installment.

2. The amount of the 13th Check to be paid shall be rounded to the nearest whole number without cents.

A. If a retiree is eligible on October 1 but dies before payment of the 13th Check in the following June, the retiree's eligible surviving spouse or eligible joint annuitant shall receive the full amount of the payment. If there is no eligible surviving spouse or eligible joint annuitant, the full amount of the retiree's 13th Check payment will be made to the retiree's beneficiary or estate according to board policy entitled Release of Pension Benefits of Deceased Pensioner.

B. If an eligible retiree dies prior to October 1, then his/her eligible surviving spouse or eligible joint annuitant shall be entitled to fifty percent (50%) of what the eligible retiree would have received but for death. The eligible surviving spouse shall be entitled to the fifty percent (50%) 13th Check benefit until death or remarriage, unless the eligible surviving spouse is the surviving spouse of a firefighter or police officer killed in the line of duty. The eligible joint annuitant shall be entitled to the fifty percent (50%) 13th Check benefit until death.

C. If an eligible surviving spouse or eligible joint annuitant is eligible for the fifty percent (50%) 13th Check benefit on October 1 but dies before payment of the 13th Check in the following June, his/her beneficiary or estate is eligible for the payment, pursuant to board policy entitled Release of Pension Benefits of Deceased Pensioner.

Chairman

PENSION BOARD POLICIES

FIREFIGHTERS & POLICE OFFICERS PENSION FUND OF THE CITY OF TAMPA

Policy Number: 427
Policy: Direct Deposit of Pension Benefits
Eff. Date: 5/28/02, 01/28/15
Ref: Board Minutes

POLICY:

Plan members separating from service on or after 10/1/02 are required to utilize direct deposit for the receipt of pension benefits. Should a plan member separating from service on or after 10/1/02 fail to provide direct deposit information to the pension office within 60 days of the effective date of the retirement benefits, a notice requesting such information shall be sent by the pension office via certified mail, return receipt requested. Should a plan member separating from service on or after 10/1/02 fail to respond within 30 days of receipt of the notice sent certified mail, return receipt requested, then pension benefits may be withheld until compliance is achieved, unless good cause be shown.

Plan members who separated from service prior to 10/1/02 who are still receiving paper checks are strongly encouraged to elect payment by direct deposit for security purposes. Once direct deposit is utilized by these members, the election is irrevocable and applies to all benefit payments, with exceptions being made only for 13th check payments.

Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 428
Policy: Deductions from Pension Benefits
Eff. Date: 11/19/02 08/26/03 05/27/04 12/15/11 09/23/16
Ref: Pension Contract, Board Minutes, Chapters 112, 175/185

POLICY:

1. The following deductions may be made from pension benefits:

   a. Federal income tax shall be withheld in accordance with federal law, unless the payee elects otherwise on Form W-4P. (Federal law prevails over state law).

   b. Upon receipt of written authorization from the retiree or eligible dependents, premiums for any/all insurances offered to retirees and/or their eligible dependents by the City of Tampa including life, health, accident, hospitalization, or annuity insurance, pursuant to Section 112.0801, Florida Statutes. Deduction of insurance premiums for benefits not paid directly to insurance providers by or offered by the City of Tampa will not be authorized.

   c. Repayment of overpayments from the retirement system or plan upon notification to the payee. (See Section 21 of Pension Contract/Act, Brown v. City of Jacksonville Beach and Board of Trustees of the City of Jacksonville Beach Employees' Retirement System, 789 So.2d 434 (Fla. 1st DCA 2001), and letter dated October 1, 2002 from James B. Loper, Board Counsel, re: Pension Overpayments).

   d. Payments to an alternate payee for alimony or child support pursuant to an income deduction order under Section 61.1301, Florida Statutes. (See Alvarez v. Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa, 580 So.2d 151 (Fla. 1991)).

   e. Payments to the Internal Revenue Service for federal income tax levies upon notification to the retirement system or plan by the Internal Revenue Service. (Federal law prevails over state law. The anti-alienation provision is subordinate to Internal Revenue Code §§ 6321 and 6331).

   f. Upon receipt of written authorization from the retiree or eligible dependents, premiums for any/all insurances offered to retirees and/or their eligible dependents by a certified bargaining agent of the

City of Tampa including life, health, accident, hospitalization, or annuity insurance. Deduction of insurance premiums for benefits not paid directly to insurance providers by or offered by a certified bargaining agent of the City of Tampa will not be authorized.

g. Any other deductions contained in the law governing the retirement system or plan.

5. The deductions set forth in subparagraphs 3.b., 3.d., and 3.f. are specifically authorized by Sections 175.061(7) and 185.05(6), Florida Statutes.

Chairman

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PENSION BOARD POLICIES

FIREFIGHTERS & POLICE OFFICERS

PENSION FUND OF THE CITY OF TAMPA

Policy Number: 432
Policy: Poverty Level Minimum Monthly Pension Benefit
Eff. Date: 08/26/04; 07/30/14
Ref: Board Minutes, pension contract

POLICY:

1. Purpose. The purpose of this policy is to implement the provisions of Section 7(J) of the pension contract which provide for a minimum monthly pension benefit to any retired member or eligible surviving spouse based upon the poverty level standards as published annually in the Federal Register.

2. Authority for Policy. Section 7(I) of the pension contract provides that the Board of Trustees shall make rules as are necessary for the effective and efficient administration of Sections 7, 8, and 9, and to administer the fund in such manner that the fund will qualify as a qualified governmental pension plan under the Internal Revenue Code, which rules shall have the force of law and shall be considered part of this contract. See also Section 5(H) of the pension contract.

3. Eligibility. Effective October 1, 2004 prospectively, the following persons shall be eligible for the poverty level minimum pension benefit: any retired member or eligible surviving spouse whose total gross monthly pension benefit (Base plus COLA) falls below the poverty level for a family of one or family of two, as the case may be, as published annually in the Federal Register.

   a. A retired member who is receiving monthly pension benefits who is unmarried shall qualify for the family-of-one statistic.

   b. A retired member who is unmarried, but has an unmarried minor child under the age of 18 shall qualify for the family-of-two statistic, provided that the minor child is either the retired member's biological child or legally adopted child (step children do not qualify under the pension contract). When the retired member's last biological or legally adopted unmarried minor child reaches the age of 18 or marries, the unmarried retired member shall revert to a family-of-one statistic.

   c. A retired member who has married after separation from employment and who has a spouse that is *ineligible* to receive surviving spouse benefits upon the death of

the retired member shall qualify for the family-of-two statistic. Note: Marital status for the purposes of this policy (#432 – Poverty Level Minimum Pension Benefit) does not automatically qualify the surviving spouse for ongoing monthly surviving spousal pension benefits (#421 – Spouse Benefits) upon the death of the retired member.

For example, a member who separates from employment on 7/7/1977 and is either unmarried at that time or marries after separation from employment, and therefore does not have an *eligible* surviving spouse to receive ongoing monthly pension benefits upon the death of the retired member, the retired member shall be eligible for the family-of-two statistic for as long as he/she is legally married. However, in this example, monthly pension benefits shall cease upon the death of the retired member, as this spouse is not an *eligible surviving spouse*.

d. An eligible surviving spouse who is receiving monthly pension benefits and has no unmarried minor biological children of the retired member and no minor child who was legally adopted by the retired member shall qualify for the family-of-one statistic. The pension plan provides that monthly pension benefits paid to an eligible surviving spouse shall cease upon *death or remarriage*. If the eligible surviving spouse were to remarry, monthly pension benefits would cease upon remarriage, except as set forth in paragraph f hereafter.

e. An eligible surviving spouse who is receiving monthly pension benefits who has an unmarried minor biological child of the retired member or an unmarried minor child who was legally adopted by the retired member shall qualify for the family-of-two statistic. When the retired member's last biological or legally adopted minor child reaches the age of 18 or marries, the unmarried surviving spouse shall revert to a family-of-one statistic.

f. Monthly pension benefits being paid to an eligible surviving spouse of a firefighter or police officer who was *killed in the line of duty* shall not cease upon remarriage. An eligible surviving spouse of a firefighter or police officer who was *killed in the line of duty* and who later remarries shall be eligible for a family-of-two statistic.

g. Minor children are not eligible for stand-alone monthly poverty level minimum pension benefits. Minor children participate in the poverty level pension benefits only to the extent that the family-of-one vs. family-of-two statistic is determined for the retired member or eligible surviving spouse.

h. The required documentation for the poverty level statistic (family-of-one vs. family-of-two) shall be a marriage certificate if based upon marital status, birth

certificate of the minor child under the age of 18, or evidence of legal adoption of an unmarried minor child under the age of 18. The Board of Trustees may also require an affidavit that the minor child has not married.

4. Effective Date.

   a. This policy became effective 10/1/2004, *prospectively*. In other words, the first monthly pension benefit affected by this poverty level minimum benefit was the October, 2004 monthly pension benefit which was paid, direct deposited or accrued to a DROP account on 10/31/2004.

   b. The monthly poverty level minimum benefits will be changed April 30 of each calendar year after the new yearly poverty level statistics are published in the Federal Register, anticipated to be published in late February or March of each year. The intended effect is to provide twelve (12) monthly payments at the applicable poverty level statistic beginning April 2005 regardless if there is a delay in publication of the next year's annual figures in the Federal Register.

5. 13th check benefits, which are contingent upon investment return and cumulative actuarial gains and losses from all sources, shall not be considered part of the total gross monthly pension benefit (Base plus COLA) for the purposes of this policy.

6. For the purposes of this policy, total gross monthly pension benefits shall mean Base plus COLA. The Base plus COLA calculation for the poverty level calculation shall be based upon the retired member's COLA class (as a cumulative % of the base pension benefit), or the eligible surviving spouse's COLA class (as a cumulative % of the base pension benefit), as the case may be.

   For example, an unmarried retired member with no unmarried biological or legally adopted minor children under the age of 18 who is currently receiving a total gross monthly pension benefit of $288 ($100 Base plus $188 COLA = $288 Total Monthly Gross) would be eligible for the 2004 family-of-one statistic of $775.83 in the prorata base/COLA amount of $269.39 Base plus $506.44 COLA = $775.83.

7. The Poverty Guidelines for the 48 Contiguous States, as published annually in the Federal Register, will determine the annual poverty level benefit amount.

8. It is the responsibility of the retired member receiving the poverty level minimum benefit to notify the pension office in a timely manner upon the death of or divorce from the retired member's spouse, and upon the retired member's unmarried minor biological or legally adopted child's marriage or reaching the age of 18 so that the

family-of-two statistic may be changed to the family-of-one statistic. It is the responsibility of the surviving spouse receiving the poverty level minimum benefit to notify the pension office in a timely manner upon the death of the retired member, the death of the surviving spouse's spouse if remarried, and upon the retired member's unmarried minor biological or legally adopted child's marriage or reaching the age of 18 so that the family-of-two statistic may be changed to the family-of-one statistic.

The pension office staff will conduct periodic pension verification questionnaires that require the notarized signature on an affidavit that the retired member, the surviving spouse, and/or unmarried minor biological or legally adopted child continue to be eligible for pension benefits and for eligibility of either the family-of-one statistic or the family-of-two statistic. The name, date of birth and social security number of all pension benefit recipients will also be compared periodically to a national database to determine if a retired member, surviving spouse or minor child has died and a reduction is due from the family-of-two statistic to the family-of-one statistic.

Under the pension contract, the Board of Trustees has the power to examine the facts upon which any pension has been granted and ascertain if any pension has been granted or obtained erroneously, fraudulently, or illegally for any reason. The Board is empowered to purge the pension rolls of any person granted a pension if found to be erroneous, fraudulent or illegal for any reason and to reclassify any pensioner who has been erroneously, improperly or illegally classified. Should any pensioner erroneously, fraudulently, or illegally receive poverty level benefits or fail to notify the pension office of a change in family status such that benefits are overpaid, the Board is obligated to collect the overpayment in accordance with Policy 415 – Overpayments to Pensioners.

9. During the annual audit for eligibility, the earned benefit for each retired member and surviving spouse will be compared to the poverty level benefit as published in the Federal Register for the upcoming year (see paragraph 4.b. above for effective date). Should the earned benefit exceed the poverty level benefit, the retired member or surviving spouse will no longer be eligible for the poverty level provision and will be converted to the original earned benefit of the retired member.

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 438
Policy: Internal Revenue Code Compliance
Eff. Date: 03/27/03 07/23/09 03/24/11 09/23/16 12/15/16
Ref: Board Minutes

POLICY:

Section 1. Compliance with Internal Revenue Code Section 401(a)(9).

Notwithstanding any other provision of City of Tampa Firefighters and Police Officers Pension Contract to the contrary, the pension fund shall pay all benefits in accordance with a good faith interpretation of the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations in effect under that section, as applicable to a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code. The pension fund is subject to the following conditions:

(A) If any pension is payable before the member's death:

(1) It shall either be distributed or commence to the member not later than April 1 of the calendar year following the later of the calendar year in which the member attains age seventy and one-half (70 1/2) years or the calendar year in which he retires.

(2) The distribution shall commence not later than the calendar year defined in subsection (1) above and (i) shall be paid over the life of the member or over the lifetimes of the member and his designated beneficiary, or (ii) shall be paid over the period extending not beyond the life expectancy of the member or the life expectancies of the member and his designated beneficiary.

Where a form of pension payment has commenced in accordance with the preceding paragraphs and the member dies before his entire interest in the pension fund has been distributed, the remaining portion of such interest in the pension fund shall be distributed no less rapidly than under the form of distribution in effect at the time of the member's death.

(B) If the member's death occurs before the distribution of his interest in the pension fund has commenced, his entire interest in the pension fund shall be distributed within five (5) years of his death, unless it is to be distributed in accordance with the following rules:

(1) If the member's surviving spouse is the sole designated beneficiary, the member's remaining interest in the pension fund is distributed or begins to be distributed by December 31 of the calendar year immediately following the calendar year in which the member died or by December 31 of the calendar year in which the member would have attained age 70 1/2, if later, and if the surviving spouse dies before the distribution to the surviving spouse begins, this section shall be applied as if the surviving spouse were the member; or

(2) If the member's surviving spouse is not the sole designated beneficiary, the member's remaining interest is to be distributed over the life of the designated beneficiary or over a period not extending beyond the life expectancy of the designated beneficiary; and such distribution begins no later than December 31 of the calendar year immediately following the calendar year of the member's death.

(C) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Section 401(a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q&A-2.

(D) The death and disability benefits provided by the pension fund are limited by the incidental benefit rule set forth in Section 401(a)(9)(G) of the Internal Revenue Code and Treasury Regulation Section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed twenty-five percent (25%) of the cost for all of the members' benefits received from the pension fund.

(E) Notwithstanding the other provisions of the pension fund or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies Section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section.

Section 2. Compliance with Internal Revenue Code Section 401(a)(31).

(A) This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the City of Tampa Firefighters and Police Officers Pension Contract to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the pension fund administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(B) Definitions.

(1) ***ELIGIBLE ROLLOVER DISTRIBUTION.*** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code ("IRC"); and the portion of any-distribution that is not includible in gross income. Effective January 1, 2002, any portion of any distribution shall not fail to be an eligible rollover distribution merely because the portion consists of amounts which would not be includible in gross income, but only if the distribution is made to (i) an individual retirement account described in IRC Section 408(a), to an individual retirement annuity described in IRC Section 408(b) or to a qualified defined contribution plan described in IRC Section 401(a) that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in IRC Section 401(a) or to an annuity contract described in IRC Section 403(b), that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which

is includible in gross income and the portion of such distribution which is not so includible; or (iii) on or after January 1, 2008, to a Roth IRA described in IRC Section 408A.

(2) ***ELIGIBLE RETIREMENT PLAN.*** An eligible retirement plan is (i) an individual retirement account described in Section 408(a) of the IRC, (ii) an individual retirement annuity described in Section 408(b) of the IRC, (iii) an annuity plan described in Section 403(a) of the IRC, (iv) a qualified trust described in Section 401(a) of the IRC, (v) effective January 1, 2002, an eligible deferred compensation plan described in Section 457(b) of the IRC which is maintained by an eligible employer described in Section 457(e)(1)(A) of the IRC and which agrees to separately account for amounts transferred into such plan from this pension fund, (vi) effective January 1, 2002, an annuity contract described in Section 403(b) of the IRC, or (vii) effective January 1, 2008, a Roth IRA described in Section 408A of the IRC, that accepts the distributee's eligible rollover distribution. Effective January 1, 2002, this definition shall apply in the case of an eligible rollover distribution to the surviving spouse.

(3) ***DISTRIBUTEE.*** A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse are distributees with regard to the interest of the spouse. Effective January 1, 2009, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by IRC Section 401(a)(9)(E). However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(4) ***DIRECT ROLLOVER.*** A direct rollover is a payment by the pension fund to the eligible retirement plan specified by the distributee.

(C) Rollovers or transfers into the pension fund. On or after January 1, 2002, the pension fund will accept, solely for the purpose of purchasing creditable service if the purchase of creditable service is allowed, permissible member requested transfers of funds from other retirement or pension plans, member rollover cash contributions and/or direct cash rollovers of distributions made on or after January 1, 2002, as follows:

(1) Transfers or direct rollovers or member rollover contributions from other plans. The pension fund will accept either a direct rollover of an eligible rollover distribution or a member contribution of an eligible rollover distribution from a qualified plan described in IRC Section 401(a) or 403(a), from an annuity contract described in IRC Section 403(b) or from an eligible plan under IRC Section 457(b) which is maintained by a state, political subdivision of a state. The pension fund will also accept legally permissible member requested transfers of funds from other retirement or pension plans.

(2) Member rollover contributions from IRAs. The pension fund will accept a member rollover contribution of the portion of a distribution from an individual retirement account or annuity described in IRC Section 408(a) or 408(b) that is eligible to be rolled over and would otherwise be includible in gross income.

(D) If on or after March 28, 2005, the pension fund provides for mandatory distribution of benefits with a present value greater than $1,000 and if a member does not elect to have such

distribution paid directly to an eligible retirement plan specified by the member in a direct rollover or to receive the distribution directly, then the pension fund will pay the distribution in a direct rollover to an individual retirement plan designated by the board of trustees of the pension fund in accordance with IRC Section 401(a)(31)(B) and IRS Notice 2005-5.

Section 3. Compliance with Internal Revenue Code Section 415.

(A) *Basic limitation.* Notwithstanding any other provisions of the pension fund to the contrary, the member contributions paid to and retirement benefits paid from the pension fund shall be limited to such extent as may be necessary to conform to the requirements of Section 415 of the Internal Revenue Code for a qualified pension plan.

(B) *Participation in other qualified plans: aggregation of limits.*

(1) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in Section 414(j) of the Internal Revenue Code maintained by the City shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan.

(2) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in Section 414(i) of the Internal Revenue Code maintained by the City shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.

(C) *Basic 415(b) limitation.* Subject to the adjustments hereinafter set forth, the maximum amount of annual benefit payable with respect to a member under this pension fund shall not exceed one hundred sixty thousand dollars ($160,000.00). For purposes of applying this limitation, the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Section 415(n) of the Internal Revenue Code) and to rollover contributions (as defined in Section 415(b)(2)(A) of the Internal Revenue Code). The "benefit attributable" shall be determined in accordance with Treasury Regulations. For purposes of this section, the following benefits shall not be taken into account:

(1) Any ancillary benefit which is not directly related to pension benefits;

(2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;

(3) Any other benefit not required under Section 415(b)(2) of the Internal Revenue Code and Regulations thereunder to be taken into account for purposes of the limitation of Section 415(b)(1) of the Internal Revenue Code.

(D) *Adjustments to basic 415(b) limitation for form of benefit.* If the benefit under the pension fund is other than the annual benefit specified in subsection (C) above, then the benefit

shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

(1) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)] that takes into account the additional benefits under the form of benefit as follows:

(2) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced Limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):

(a) The annual amount of the straight life annuity (if any) payable to the member under the pension fund commencing at the same annuity starting date as the form of benefit to the member, or

(b) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Section 417(e)(3)(B) of the Internal Revenue Code); or

(3) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the following assumptions:

(a) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the pension fund for actuarial experience; or

(b) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality

tables described in Section 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Section 417(e)(3)(B) of the Internal Revenue Code); or

(c) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate then in effect for the first day of the plan year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable mortality rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the Internal Revenue Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Section 417(e)(3)(B) of the Internal Revenue Code), divided by 1.05.

(E) *Other adjustments in limitations.*

(1) In the event the member's retirement benefits become payable before age sixty-two (62), the one hundred sixty thousand dollar ($160,000.00) limitation prescribed by this section shall be reduced in accordance with regulations issued by the secretary of the treasury pursuant to the provisions of Section 415(b) of the Internal Revenue Code, so that such limitation (as so reduced) equals an annual benefit (beginning when such pension benefit begins) which is equivalent to a one hundred sixty thousand dollar ($160,000.00) annual benefit beginning at age sixty-two (62).

(2) The reductions provided for in (E)(1) above shall not be applicable to disability benefits or pre-retirement death benefits.

(3) In the event the member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limitation set forth in subsection (A) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be made using an assumed interest rate of five (5) percent and shall be made in accordance with regulations promulgated by the secretary of the treasury or his delegate.

(4) The reductions provided for in (E)(1) above shall be applied separately with each change in the benefit structure to the extent provided for in treasury regulations.

(F) *Less than ten years of service.* The maximum retirement benefits payable under this section to any member who has completed less than ten (10) years of credited service with the city shall be the amount determined under subsection (C) of this section multiplied by a fraction, the numerator of which is the number of the member's years of credited service (but no less than one (1)) and the denominator of which is ten (10). The reduction provided for in this subsection shall not be applicable to disability benefits or pre-retirement death benefits.

(G) *Ten-thousand dollar limit.* Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the limitations set forth in this section if the benefits payable, with respect to such member under this pension fund and under all other qualified defined benefit pension plans to which the city contributes, do not exceed ten thousand dollars ($10,000.00) for the applicable plan year and for any prior plan year and the city has not at any time maintained a qualified defined contribution plan in which the member participated.

(H) *Effect of COLA without a Lump Sum Component on 415(b) Testing.* Effective on and after January 1, 2009, for purposes of applying the limits under Section 415(b) of the Internal Revenue Code (the "Limit") to a member with no lump sum benefit, the following will apply:

(1) a member's applicable Limit will be applied to the member's annual benefit in the member's first limitation year without regard to any cost of living adjustments under Section 23 of the Pension Contract;

(2) to the extent that the member's annual benefit equals or exceeds the Limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the Limit; and

(3) thereafter, in any subsequent limitation year, a member's annual benefit, including any cost of living increases under Section 23 of the Pension Contract, shall be tested under the then applicable benefit Limit including any adjustment to the Section 415(b)(1)(A) of the Internal Revenue Code dollar limit under Section 415(d) of the Internal Revenue Code, and the regulations thereunder.

(I) *Effect of COLA with a Lump Sum Component on 415(b) Testing.* On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable Limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury Regulations.

(J) *Section 415(c) limitations on contributions and other additions.* After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of $40,000 (as adjusted pursuant to Section 415(d) of the Internal Revenue Code) or 100% of the member's compensation. Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

(K) *Service purchases under section 415(n).* Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the pension fund, then the requirements of Section 415(n) of the Internal Revenue Code will be treated as met only if:

(1) the requirements of Section 415(b) of the Internal Revenue Code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Section 415(b) of the Internal Revenue Code, or

(2) the requirements of Section 415(c) of the Internal Revenue Code are met, determined by treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code.

(3) For purposes of applying this section, the pension fund will not fail to meet the reduced limit under Section 415(b)(2)(C) of the Internal Revenue Code solely by reason of this subsection and will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code solely by reason of this section.

(4) For purposes of this section the term "permissive service credit" means service credit—

(a) recognized by the pension fund for purposes of calculating a member's benefit under the pension fund,

(b) which such member has not received under the pension fund, and

(c) which such member may receive only by making a voluntary additional contribution, in an amount determined under the pension fund, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (b), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the pension fund.

(5) The pension fund will fail to meet the requirements of this section if—

(a) more than five (5) years of nonqualified service credit are taken into account for purposes of this subparagraph, or

(b) any nonqualified service credit is taken into account under this paragraph before the member has at least five (5) years of participation under the pension fund.

(6) For purposes of paragraph (5), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to—

(a) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service

for credit which was obtained as a result of a repayment described in Section 415(k)(3) of the Internal Revenue Code),

(b) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (a)) of an education organization described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed,

(c) service as an employee of an association of employees who are described in clause a., or

(d) military service (other than qualified military service under Section 414(u) of the Internal Revenue Code) recognized by the pension fund.

In the case of service described in clause (a), (b), or (c), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan.

(7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Section 403(b)(13)(A) of the Internal Revenue Code or Section 457(e)(17)(A) of the Internal Revenue Code applies (without regard to whether the transfer is made between plans maintained by the same employer)—

(a) the limitations of paragraph (5) will not apply in determining whether the transfer is for the purchase of permissive service credit, and

(b) the distribution rules applicable under federal law to the pension fund will apply to such amounts and any benefits attributable to such amounts.

(8) For an eligible member, the limitation of Section 415(c)(1) of the Internal Revenue Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the pension fund as in effect on August 5, 1997. For purposes of this paragraph an eligible member is an individual who first became a member in the pension fund before January 1, 1998.

(L) *Modification of contributions for 415(c) and 415(n) purposes.* Notwithstanding any other provision of law to the contrary, the pension fund may modify a request by a member to make a contribution to the pension fund if the amount of the contribution would exceed the limits provided in Section 415 of the Internal Revenue Code by using the following methods:

(1) If the law requires a lump sum payment for the purchase of service credit, the pension fund may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under Section 415(c) or 415(n) of the Internal Revenue Code.

(2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by Section 415(c) or 415(n) of the Internal Revenue Code, the pension fund may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.

(M) *Repayments of Cashouts.* Any repayment of contributions (including interest thereon) to the pension fund with respect to an amount previously refunded upon a forfeiture of service credit under the pension fund or another governmental plan maintained by the City shall not be taken into account for purposes of Section 415 of the Internal Revenue Code, in accordance with applicable Treasury Regulations.

(N) *Reduction of benefits.* Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.

(O) *Cost-of-living adjustments.* The limitations as stated in subsections (A), (B), (D) and (F) herein shall be adjusted to the time payment of a benefit begins in accordance with any cost-of-living adjustments prescribed by the secretary of the treasury pursuant to Section 415(d) of the Internal Revenue Code.

(P) *DROP.* The deferred retirement option program (DROP) is a form of benefit accrual under the defined benefit plan. Pursuant to Section 24 and Board Policy, the benefit payable under the DROP shall be limited as provided under Section 415 of the Internal Revenue Code.

Section 4. Compliance with USERRA and HEART.

(A) Notwithstanding any other provision of this pension fund, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with section 414(u) of the Internal Revenue Code.

(B) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a member in the pension fund, are entitled to any additional benefits that the pension fund would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(C) Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(12) of the Internal Revenue Code, an individual receiving differential wage payments

(while the individual is performing qualified military service (as defined in chapter 43 of title 38, United States Code)) from the city shall be treated as employed by the city, and the differential wage payment shall be treated as earned compensation, but contributions attributable to such differential wage payments shall not be made unless and until the member returns to active employment and makes up the missed contributions. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Section 5. IRS Tax Qualification Compliance – Elective Deferrals

For the purposes of the Tax Qualification / Favorable Letter of Determination, the earnings as used in the pension contract/act shall also include the amount of any elective deferrals, as defined in Code Section 402(g)(3), and any amount contributed or deferred by the employer at the election of the member and which is not includible in the gross income of the member by reason of Code Section 125, 132(f), or 457.

Section 6. Normal Retirement Age

For purposes of compliance with the Internal Revenue Code and related guidance, the normal retirement benefit, which is the benefit calculated under Pension Contract Section 7(A) for a member, is nonforfeitable upon attainment of normal retirement age, which is age forty-six (46), and the completion of ten (10) years of service, whichever is later, except as provided in FS § 112.3173. This subsection is not to be construed as a reduction or limitation of rights heretofore existing, nor as an indication that vested benefits would be forfeitable before the stated age is attained.

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 439
Policy: Buy-backs of Past Credited Service
Eff. Date: 08/25/11 09/23/15
Ref: Section 17(E) of Pension Contract, Board Minutes

POLICY:

I. PURPOSE: The purpose of this policy is to implement the provisions of Section 17(E) of the pension contract which provides for the purchase of up to five years of past credited service from a government-sponsored defined benefit system based upon:

a. Service as a full-time certified firefighter or certified police officer employed by a city, county, state, federal, or other public agency where certification is a requirement for employment, OR

b. Military service in the Armed Forces of the United States.

Temporary, auxiliary, reserve, volunteer, or private agency service shall not apply. If a member previously participated in a defined contribution system to which the employer made contributions, he/she is not eligible to purchase that period of time. **Service credit purchased under the provisions of this section shall not count for vesting purposes.**

This policy shall also apply to restoration of prior Tampa service credit for members who fail to meet the time requirements for restoration of withdrawn contributions in Policy 207.

II. ELIGIBILITY: Any member of the Tampa F&P Pension Fund who is actively working on or after October 1, 2011 as a sworn firefighter or police officer who has not yet retired or entered DROP shall be eligible to purchase past credited service. For the purposes of this policy, the term "actively working" means a member who is in payroll status (meaning he/she is receiving a bi-weekly paycheck and paying pension contributions) or who is on an authorized, unpaid leave of absence for a non-disciplinary reason.

III. PROCEDURES:

1. The full actuarial cost of the service purchased shall be paid by the member purchasing the service. Prior service shall not be granted until the member has paid to the pension fund the full actuarial cost of the service purchased. The full actuarial cost shall be determined by the fund's actuary utilizing actuarial assumptions consistent with the fund's annual actuarial valuation in effect at the time the request for purchase is made. The actuarial assumptions used by the Board may change from time to time. The member's cost however, will not

change but will be based upon the actuarial calculation that is valid at the time the member agreed to purchase credited service.

2. The actuarial calculation shall be paid for by the member purchasing the service by check or money order made payable to the Tampa Fire & Police Pension Fund in the amount of $350.00. The $350.00 payment for the actuarial calculation shall not be refundable, even if the member chooses not to exercise the buy-back option. Actuarial calculations for service purchased under this policy shall be valid for six (6) months from the date the calculation is received by the member.

3. No service credit may be purchased if the member is receiving or will receive any other retirement benefit based on the service with a different employer for the period of time purchased, except in the case of a military pension. In the case of a member with prior eligible police or fire service, notice must be provided from the prior retirement plan via the Buy-back/Prior Credited Service Request and Verification Form that the prior service will be disclaimed or canceled and that no funds have been received or are payable from a publicly funded defined contribution plan for the same period. If the prior retirement plan indicates prior service will not be relinquished, then that service time is not eligible for purchase.

4. Payments to the Tampa Fire & Police Pension Fund for prior service purchases (aka buy-backs) may be made by:

   a. One lump sum by check, money order, cashier's check, or custodian to custodian transfer.

   b. Payroll deductions in equal bi-weekly installments for a period of time which shall not exceed the number of years being purchased.

      i. A member making installment payments shall be charged interest based on the actuarially assumed rate of return for the Plan in effect at the time the purchase is made.

      ii. A member making installment payments shall complete all required payments prior to payment of any benefit under this section.

   The pension office cannot accept cash, credit card, or debit card payments.

   A member may choose to make a down-payment in one lump sum, and pay the remaining balance of the buy-back through payroll deductions in equal bi-weekly installments. Once the installment method is selected, it cannot be changed until the payments are completed. Once the payroll deduction installment payments have been initiated, they will be automatically deducted at the same amount over the life of the installment period.

5. Subject to any requirements or restrictions in the Internal Revenue Code, additional principal payments outside of payroll deductions may be made to the F&P pension office in amounts of $100.00 or greater by check, money order, or cashier's check. An additional principal payment will not change the bi-weekly installment amount, but will pay off the balance sooner. Should it be determined necessary, this option may be discontinued in order for the fund to maintain compliance with the Internal Revenue Code.

6. The minimum amount of service that can be purchased is one (1) month. The maximum amount of service that can be purchased is five (5) years (60 months). Partial years may be purchased in monthly increments (e.g. 4 years, 7 months).

7. A non-vested member who terminates service through dismissal or resignation or who dies while in service from non-duty related causes shall be entitled to a refund, without interest, of the buy-back amount paid for prior military, firefighter, or police officer service. A non-vested member who becomes disabled or dies prior to retirement or DROP entry while in service from duty-related causes, and is eligible for disability or death benefits from the Fund, shall not be eligible for a refund of buy-back contributions.

8. A vested member who becomes disabled or dies prior to retirement or DROP entry, whether line-of-duty or non-line-of-duty, and is eligible for disability or death benefits from the Fund, shall not be eligible for a refund of buy-back contributions.

9. Proof of prior military service may be provided to the F&P pension office in the form of either a DD-214 or orders reflecting enlistment and honorable discharge dates.

10. Verification of prior firefighter or police officer credited service shall be conducted by the F&P pension office utilizing a buy-back request and verification form signed by the member authorizing the pension office to obtain specific information in writing from the prior agency. To qualify for buy-back under this policy, the prior agency must verify:

    a. the member's prior service was as a full-time certified firefighter or full-time certified police officer by a city, county, state, federal or other public agency; and

    b. the member is not receiving and is not eligible to receive a pension benefit in the future from the prior agency for the time period being bought back.

    In order to prove that the member's service was as a police officer or firefighter, the member's service must meet the statutory definition of police officer or firefighter, set forth below in (i) for police officer and/or (ii) for firefighter:

i. In order to prove that the member's service was as a police officer, the member or prior agency must be able to prove to the Board of Trustees that the prior service is equivalent to the service required to meet the statutory definition under Chapter 185, Fla. Stat. in effect at the time the service is purchased or as interpreted by the Division of Retirement.

ii. In order to prove that the member's service was as a firefighter, the member or prior agency must be able to prove to the Board of Trustees that the prior service is equivalent to the service required to meet the statutory definition under Chapter 175, Fla. Stat. in effect at the time the service is purchased or as interpreted by the Division of Retirement.

11. Each buy-back is subject to approval by the Board of Trustees consistent with the applicable law and this policy. The Board reserves the right to reject any requested buy-back which does not meet all legal requirements. A member consents to this policy by virtue of filing the buy-back request.

12. If the pension office is unable to obtain sufficient written verification of qualifying full-time certified firefighter or certified police officer service from the member's previous employer(s), the member may submit written documentation supporting the buy-back application to the pension office. If the Board denies the request, the member may appear before the Board, pursuant to policies 107 and 108. The Fund shall not be required to act on any application where the information provided is incomplete or fails to meet the requirements of this policy.

13. If a member signs up for buy-back installment payments through payroll deduction and then separates from service, whether voluntarily or involuntarily, prior to the buy-back installments being completed, in this limited circumstance the member may either:

a. Have his/her pension benefit calculated only upon the partial buy-back that has been completed up to the separation date; or

b. Make a single lump-sum payment of the remaining balance of the buy-back.

This early separation scenario will only be initiated upon receipt of an executed Notice of Separation. If the member chooses the first option, the amount of time purchased through the last payroll deduction will be calculated by the fund's actuary at an additional cost to the member of $350. If the member chooses the second option, the lump-sum payment must be completed within fifteen (15) days of written notification from the pension office of the amount due, which will be the principal balance on the amortization schedule in effect at the date of separation.

Since prior service shall not be granted until the member has paid to the pension fund the actuarial cost of the service purchased or the actuary has calculated the

amount of time purchased by partial buy-back, a complete retirement benefit calculation, and thus retirement benefit payment, cannot be calculated or made until the buy-back has been completed. Both of these options may delay the first pension benefit.

14. The Board of Trustees and staff shall not advise members of the financial feasibility or federal tax consequences of buy-backs. Members considering buying back are strongly encouraged to seek their own personal tax and financial planning advice.

15. By electing to buy service pursuant to this policy, the member consents to the conditions in this policy.

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 440
Policy: Remarriage/Marriage After Retirement
Eff. Date: 09/22/11 09/23/15
Ref: Section 9(C)(2) of Pension Contract, Board Minutes

POLICY:

I. PURPOSE: The purpose of this policy is to implement the provisions of Section 9(C)(2) of the pension contract which provides for a remarriage/marriage after retirement optional benefit to certain members, by reducing the retirement benefit for a member's remaining lifetime under certain conditions, in order to provide a continuation benefit to his/her spouse who would otherwise have been ineligible to receive one.

II. ELIGIBILITY: Effective October 1, 2011, prospectively, any member of the Tampa F&P pension fund who:

1. retired or entered DROP between 10/1/1971 and 10/1/2002, AND
2. married or remarried after retirement, AND
3. has a spouse who is not more than 20 years younger than the married/remarried member, AND
4. has been married at least three (3) consecutive years prior to this election taking effect.

There is no retroactivity to this benefit.

III. PROCEDURES:

1. A member exercising this option must submit to the pension office for certification of eligibility of the spouse the following proof: a) a copy of the marriage certificate; and b) a copy of one of the following forms of identification verifying the spouse's age: driver's license, passport, birth certificate or state/national ID card. In addition, the member must swear or affirm that they are currently lawfully wedded to this spouse.

2. The effective date of an election under this policy shall be the first of the month following receipt of an executed, notarized election form in the F&P pension office. For example, if an election is made and the executed, notarized form is received and approved by the pension office on 10/27/2011, the effective date of the election shall be 11/1/2011. The member's voluntary reduction would then be reflected on the 11/30/2011 pension benefit, which covers benefits for the period of 11/1/2011 to 11/30/2011. If the member dies after the written election of this option is received and approved by the pension office but prior to the first of the month, the reduction will occur immediately

and benefits will commence for the deceased's eligible surviving spouse after receipt of a properly executed application for spousal benefits by the pension office.

3. A member cannot make this election prior to his/her 3rd consecutive anniversary of the most recent marriage. An election made prior to the 3rd anniversary of the most recent marriage will be void and will not automatically take effect on the 3rd anniversary date.

4. The amount of the member's voluntarily reduced benefit and the widow or widower's continuation benefit will be based on actuarial equivalence as determined by the fund's actuary. Such voluntarily elected benefit shall not result in any additional actuarial cost to the Fund or to the plan sponsor than would have been incurred had the member not elected the optional remarriage/marriage after retirement option.

5. There is no "pop-up" provision on this optional benefit. If the member elects this option and takes a voluntarily reduced benefit, and the member divorces or the spouse dies, the member's benefit remains the same and does not revert to the original benefit before reduction. This optional benefit was collectively bargained to be actuarially cost neutral, and a pop-up provision has an actuarial cost. The member may however exercise this option a second and final time provided that all eligibility requirements are met. The member's benefit and new spouse's continuation benefit would be actuarially re-determined at the second exercise of this option taking into consideration the member's and new spouse's age and life expectancy of both at the time of the election based upon actuarial equivalence.

6. The number of times that this optional remarriage/marriage after retirement provision may be exercised by a member is a maximum of two times—two remarriages/marriages after retirement.

7. The Board of Trustees and staff shall not advise members of the financial feasibility or federal tax consequences of electing the remarriage/marriage after retirement option. Members considering electing this option are strongly encouraged to seek their own personal tax and financial planning advice.

Chairman

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Policy Number: 441
Policy: Pension Forfeitures
Eff. Date: 10/30/2013
Ref: Board Minutes

PENSION BOARD POLICIES

FIREFIGHTERS & POLICE OFFICERS PENSION FUND OF THE CITY OF TAMPA

POLICY:

Florida Statute §112.3173 governs the forfeiture of pension benefits of public officers and employees when convicted of certain specified offenses which constitute a breach of the public trust. The statute provides that any public officer or employee who is convicted of a specified offense committed prior to retirement, or whose office or employment is terminated by reason of his or her admitted commission, aid, or abetment of a specified offense, shall forfeit all rights and benefits under any public retirement system of which he or she is a member, except for the return of his or her accumulated contributions.

The Board of Trustees shall follow the procedure outlined in Florida Statute §112.3173 regarding the initiation of forfeiture proceedings against members convicted of specified offenses. Counsel for the Board of Trustees shall review all possible cases where forfeiture proceedings may be commenced, and will make a recommendation at a meeting of the Board of Trustees as to whether a forfeiture proceeding is warranted. Should it be determined that forfeiture proceedings are appropriate, counsel for the Board of Trustees shall prepare and serve upon the member a Notice of Proposed Agency Action advising that the member has a right to request a hearing by a certain date.

If a request for hearing is timely received, the Board shall conduct a hearing in accordance with the provisions of Chapter 120, Florida Statutes. The Board of Trustees may retain outside legal counsel to advocate why benefits should be forfeited. If a request for hearing is not timely received, that Board of Trustees shall vote at the next regularly scheduled meeting to forfeit benefits, and a Final Order will be drafted by Board counsel and served upon the member.

Florida Statute §112.3173 does not address the procedure to be employed by the Board of Trustees in instances where the member has been charged with a crime, and prior to conviction, has either filed an application for retirement benefits, or commenced receipt of benefits. When a member has filed a retirement application or commenced receipt of benefits, and evidence has been brought to the Board of Trustee's attention that the member has been charged with what may be a specified offense, the Board of Trustees **shall** vote at the next regularly scheduled meeting to allow the member to continue to receive benefits up to an amount equal to his or her employee contributions.

Once the employee contributions are exhausted, the Board of Trustees **shall** discontinue the payment of retirement benefits until resolution of the criminal case and a determination of whether benefits should be forfeited is made by the Board of Trustees. If the member has

not yet received distribution of his or her DROP account, the Board shall defer acting on the DROP distribution until such time as the forfeiture proceedings are complete.

If the member is not convicted of a specified offense, the Board of Trustees shall act on the retirement application of the member.

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 501
Policy: Withdrawal of Pension Contributions
Eff. Date: 11/18/85 11/02/76 04/14/81 07/11/00 06/24/10 02/25/15
Ref: Board Minutes Pension Contract, Section 22 Chapter 99-01

POLICY:

When a member severs his/her connection with the police or fire department, either voluntarily or by lawful discharge, the member is entitled to a refund of his/her contributions without interest.

Any member who is seeking legal review of a discharge remains a member during the review process and is not eligible to receive a refund of his/her contributions until the conclusion of those proceedings and only if the/she is not reinstated.

A firefighter or police officer may voluntarily leave his/her contributions in the fund for a period of 5 years after leaving the employ of the fire or police department, pending the possibility of being rehired by the same department, without losing credit for the time he/she has participated actively as a firefighter or police officer. If the firefighter or police officer is not re-employed as a firefighter or police officer, with the same department within 5 years, his/her contributions shall be returned without interest.

A member must apply for a refund of pension contributions by completing a "Withdrawal of Pension Contributions" form furnished by the Pension Office.

Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 604
Policy: Witness and Speaker Fees
Eff. Date: 06/09/87 02/24/16
Ref: Board Minutes

POLICY:

Any monies paid to any trustee or employee of the Fund for witness fees, testimony or depositions, court appearances, speaker fees etc. shall be deposited into the Fund's custody account.

Chairman Richard Greiner

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 605
Policy: Travel
Eff. Date: 12/18/90 01/25/94 04/14/98 03/14/00 08/08/00 04/23/02 06/25/02 08/26/03 08/23/07 12/15/11 04/27/16
Ref: Board Minutes

POLICY:

The purpose of this policy is to establish policies and procedures for Pension Board trustees and staff who travel out of Hillsborough County and incur expenses in reference to pension related business only.

1. **Authority** – Recognizing that the Board of Trustees has a fiduciary obligation to the Fund, including the judicious expenditure of funds and becoming well-educated on investment or pension fund matters, the Board of Trustees and other authorized persons may attend investment or pension-related educational conferences or training seminars in the continental U.S. The Fund's investment policy requires Continuing Professional Education (CPE) by each trustee in the amount of 12 hours per term year (term year = 11/1 – 10/31), and not less than 48 hours per three year term. Any trustee elected or appointed to the board who is filling a partial term shall be responsible for obtaining the prorata share of continuing professional education credit.

2. **Disclosure / Approval** - Attendance at conferences or training seminars shall be disclosed at pension board meetings ***prior to*** the event, even if attendance is tentative, and shall be disclosed in the minutes as a matter of record as part of the upcoming conferences agenda item. It is the intent of this policy that all trustees and staff disclose planned attendance as early as possible. The only exception to a disclosure made prior to the event start is for travel to meet with a Fund professional and when only one trustee will be in attendance. Should a trustee or staff member be unable to attend an event, he/she shall disclose non-attendance at a pension board meeting, even if the meeting is after the event, so that it may be recorded in the minutes as a matter of record. If a trustee or staff member is unable to attend an event, notification should be given to the pension office as soon as non-attendance is known for cancellation of travel arrangements and refund purposes.

   Most circumstances relating to Fund business travel unrelated to training are known sufficiently in advance to receive approval by the Board. Consequently, travel for such business will be dictated by business meeting times and reasonable availability of transportation. For travel circumstances that arise unexpectantly, such as but not limited to travel to Tallahassee to attend legislative sessions or Division of Retirement meetings, such travel shall be reported at the first Board meeting following the travel.

3. **Limits and Additional Disclosure and Approval** – Trustees and staff may attend up to four investment or pension related educational conferences or training seminars per term year (11/1 – 10/31) by disclosing planned attendance as set

forth in item 2 above. If a trustee or staff member wishes to attend more than four investment or pension related conferences or training seminars per term year, any additional attendance shall require a separate motion from the standard upcoming conference disclosure/receive and file motion, and shall require approval by the Board of Trustees *in advance*.

Conferences and seminars with registration fees in excess of the plan administrator's expenditure authority shall be presented to the Board for approval independently of the standard conference disclosure process. These should be presented along with the latest available conference agenda. When attending an investment or pension related conference or training seminar while representing the Fund, where there is no travel expense, and no per diem or expense reimbursement sought by the trustee or staff member, attendance must be disclosed in advance, but does not count towards the four per term year limit, since there is no expense to the Fund.

The Board, in its discretion, may limit the number of participants per conference.

Courses offered as part of higher education or degree-seeking programs will not be considered applicable training seminars under this policy and tuition will not be considered a registration fee.

4. In order to aid in reconciliation of actual expenditures to credit card charges billed to the Fund, a travel reimbursement form and any required expense receipts must be turned in to the Pension Office for reimbursement of travel expenses within 60 days of completion of travel. Reimbursement forms shall be submitted to the Chairman, or the Vice Chairman in the absence of the Chairman, for approval before being processed for payment. The Vice Chairman shall approve travel reimbursement for the Chairman. Travel reimbursement forms not submitted to the pension office within 60 days of completion of travel shall result in the trustee being placed on the next agenda's upcoming conference listing under outstanding travel.

5. **Expenses** – Traveling expenses will be limited to those incurred by the traveler in the performance of duties related to pension functions and responsibilities. Travel is to be made by the usually traveled or most direct route except in a case where it would be financially beneficial to the Fund not to do so (i.e. a less direct route would result in a substantial cost savings). Persons traveling by an indirect route for their own convenience must bear any extra costs, and reimbursement for expenses will be based only on the charges that would normally have occurred.

6. **Transportation** – Travelers shall use the most cost effective mode of transportation, whether it is by air, ground, or some combination. Travelers using their personal vehicles for pension-related business, including education travel and board meeting attendance, shall be reimbursed according to the IRS guidelines mileage reimbursement rate per mile in effect at the time of travel. Automobile

rental shall be used when the nature of the trip is such that the use of personal, public, or hired transportation is not practical or would be more expensive. The use of full-sized cars is permitted when the price is the same or lower than an intermediate size car or when the number of travelers warrants a larger size car.

7. **Lodging** – Lodging accommodations will be made when travel extends overnight and requires lodging not within Hillsborough County. Lodging will not be paid for by the Fund when travel is confined to Hillsborough County.

   Lodging will be provided based on the conference or training seminar location. Days exclusively for registration and/or networking opportunities will not be considered part of the event program, because staff pre-registers individuals for training events and networking opportunities are built in to each event.

   For conferences or training seminars held in the State of Florida, the night before and all nights during the conference or training seminar will be paid for by the Fund. The night after the conference or training seminar will not be paid for by the Fund.

   For conferences or training seminars held outside the State of Florida, the night before the conference or training seminar, all nights during, and the night the conference or training seminar ends will be paid for by the Fund.

   Any changes to the lodging schedule must be approved by the Chairman in advance. The Vice Chairman shall approve any such changes for the Chairman.

   Lodging expenses should not exceed the normal rate charged for a single room for the event. It is expected that the traveler will exercise judgment in the selection of a place to stay.

   Travelers are expected to take advantage of any lodging, airfare, or other travel discounts available to them, including any applicable government discounts. For efficiency, staff shall not be responsible for obtaining discounts other than those readily available online. Use of any additional discounts or membership training seminar incentives is the responsibility of the traveler. The location of the hotel should be as convenient as possible to the place where business is being transacted taking into consideration, however, the cost of the hotel.

   Travelers will be provided with a City of Tampa tax exempt certificate, and it is expected that the ***traveler*** will ensure that taxes on lodging within the state of Florida are not charged to the pension fund.

   Room rate, taxes (if out-of-state) and other required lodging fees, including mandatory resort fees, will be allowed.

Internet connection (Wi-Fi) charges shall be authorized provided that it is used for business or pension-related purposes only and alternative access to free Wi-Fi is unavailable.

8. **Meals** – The maximum daily amount allowed for meals is $65 per day at the following meal rates:
   - breakfast (travel/event before 11:00am) - $14.00
   - lunch (travel/event between 11:00am and 4:00pm) - $21.00
   - dinner (travel/event after 4:00pm) - $30.00

   Any meals in excess of the meal per diem shall be reviewed and approved by the Chairman on a case-by-case basis, or the Vice Chairman if for the Chairman. Any traveler seeking reimbursement that exceeds the per-meal amount shall be required to submit a receipt for reimbursement of that meal.

9. **Miscellaneous Expenses** - Travelers shall be reimbursed for miscellaneous expenses for pension business, including:
   - hired and public transportation
   - bridge, road, and tunnel tolls
   - self-parking fees, or valet parking fees if self-parking is considered to be a safety risk or is unavailable
   - tips for bellman, skycap, valet , etc

10. **Prohibited Expenses** – There shall be no reimbursement for alcohol, in-room movies, personal expenses, or expenses associated with a guest. Recreational expenses shall not be reimbursed. If a trustee or staff member wishes to upgrade travel or hotel accommodations to a higher expense level, the trustee or staff member shall not be reimbursed for the cost of the upgrade. In the event a trustee or staff member utilizes personal travel awards, such as frequent flyer miles, the trustee or staff member may not receive a cash reimbursement for the value of such travel award.

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 702
Policy: Investment Policy
Eff. Date: 09/25/01 08/26/10 07/28/11 12/15/11 08/28/13 10/26/16
Ref: Pension Contract, Board Minutes, Chapters 112, 175, 185, ERISA (prudent man/expert)

POLICY

1. **SCOPE**: This investment policy shall apply to all funds held for investment under control of the Board.

2. **INVESTMENT OBJECTIVES**: The primary objective of the Investment Manager(s) shall be the protection and preservation of Pension Fund assets. In addition, the Manager shall seek the highest possible return consistent with prudent regard for risk, safety of capital, diversification, legal considerations, liquidity, and fiduciary responsibility. The Pension Fund's investment approach should be based on long-term investment horizons enabling interim fluctuations to be viewed with appropriate perspective.

3. **PERFORMANCE MEASUREMENT**: The Investment Manager's performance shall be evaluated not less than quarterly by a professionally qualified independent consultant retained by the Board. The phrase "professionally qualified independent consultant" means a consultant who, based on education and experience, is professionally qualified to evaluate the performance of professional money managers, and who, at a minimum:

   a. Provides his or her services on a flat-fee basis.

   b. Is not associated in any manner with the money manager for the pension fund.

   c. Makes calculations according to the American Banking Institute method of calculating time-weighted rates of return. All calculations must be made net of fees.

   d. Has 3 or more years of experience working in the public sector.

   The Investment Manager(s) shall be evaluated by a professionally qualified independent consultant against a blended policy benchmark comprised of 60% S&P 500, 15% EAFE, 20% Barclays Capital G/C, and 5% T-bills. The Investment Manager(s) shall also be evaluated against a balanced index for the total fund, composed of S&P 500, EAFE, Barclays Capital G/C, Alerian MLP and T-bills which shall be self-adjusting based upon the actual asset allocation of the portfolio. The performance of the Investment Manager shall also be compared to CPI – All Urban Consumers. The portfolio's rate of return, net of investment fees, shall be reported by time weighted return and dollar weighted returns on an annualized basis as fiscal year to date, and rolling five, ten, fifteen, and twenty year periods.

   The Pension Board Chairman shall select three (3) members of the Pension Board to serve on an Investment Committee. The Committee shall consist of one firefighter trustee, one police officer trustee, and one appointed trustee. The Investment Committee shall periodically review the investment policy and performance measurement reports and make recommendations to the full Board for consideration as necessary.

4. **INVESTMENT AND FIDUCIARY STANDARDS**: Section 6 of the pension contract provides that investments shall be made by the Board of Trustees under the prudent man standard: "the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence considering the probable income therefrom as well as probable safety of their capital." However, Florida Statutes 112.661(4) requires that the board in performing its investment duties shall comply with the fiduciary standards set forth in the Employee Retirement Income Security Act of 1974 (ERISA) at 29 U.S.C. s. 1104(a)(1)(A)-(C). That fiduciary standard, as applicable here is that the Board shall discharge its duties with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board hereby adopts the fiduciary standard set forth in Florida Statutes 112.661(4). The Investment Manager(s) shall be held to the prudent expert standard: "with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent expert acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims."

All fiduciaries to the fund shall discharge his/her duties with respect to the plan solely in the interest of participants and beneficiaries and for the exclusive purpose of providing benefits to participants and their beneficiaries; and defraying reasonable expenses of administering the plan; by diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and in accordance with the documents and instruments governing the plan.

The Investment Manager(s) are delegated the responsibility of exercising all voting rights acquired through the Plan's investments. The Investment Manager(s) shall exercise acquired voting rights with the interest of acting as a fiduciary in the best interest of the Plan's participants. The Pension Fund's custodian shall forward copies of all proxies directly to the Fund's Investment Manager(s). The Investment Manager(s) shall review all proxies, and generally, proxies will be voted along management's guidelines as indicated on the proxy. The Investment Manager(s) shall provide a quarterly proxy voting report indicating proxies voted. Non-routine proxies shall be referred to the Board's Investment Committee.

5. **AUTHORIZED INVESTMENTS**: The following broad asset categories are authorized investments under the pension contract/act, subject to limitations contained within Chapters 175 and 185, Florida Statutes and Chapter 215.47, Florida Statutes: equities, fixed income, cash, cash equivalents, and real estate.

Investments authorized by the Board are set forth in Section 6 (3) of the Pension Contract/Act:

"The Board shall have exclusive charge of the investment of any surplus in said fund not needed for the current obligations thereof; and said funds shall be managed by said Board in accordance with the following:

(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 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 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 judgement and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management 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 twenty-five per centum (25%) of said fund, based on the total market 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. The investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law."

All non-routine investment recommendations (such as securities lending, derivatives, collateralized mortgage obligations, etc.) will require full board approval.

6. **MATURITY AND LIQUIDITY REQUIREMENTS**: On advice of the Investment Manager(s) and actuary, the Board shall structure the portfolio in such manner as to provide sufficient liquidity to pay obligations as they come due based upon timely communication and information regarding known cash flow needs and anticipated cash flow requirements provided by the Board's staff.

7. **PORTFOLIO COMPOSITION**:

Cash Sector. With respect to cash equivalent short-term investments, overall quality and minimal risk criteria apply. Instruments which may be used include: U.S. Government obligations and commercial paper rated A1/P1 or higher. Any cash not invested by the Investment Manager should be invested daily through an interest bearing automatic sweep vehicle provided by the Pension Fund Custodian and approved by the Investment Manager(s).

Fixed Income Sector. The overall objectives of the fixed income portion of the portfolio are to add stability, consistency, income, and safety to the total fund portfolio. Instruments which may be used are summarized in Section 6 of the pension Contract/Act (see Appendix A – Section 6 of the Pension Contract/Special Act). The primary focus should be on high quality issues such as bonds, notes, or other evidences of indebtedness

issued, assumed, or guaranteed in whole or in part by the United States or any of its agencies or instrumentalities, and high quality corporate obligations holding a quality rating of A or better at the time of the purchase by at least one of the major rating services. The preferred maturity for both government and corporate obligations is three to ten years, although this could vary based on market conditions, meaning both longer and shorter maturities are permissible. Bonds, notes or other evidences of indebtedness issued, or assumed or guaranteed in whole or in part by any foreign government, political subdivision, or agencies thereof are permissable, limited to a combined total of international equities and international fixed income of 25% of the total fund based on market value.

Equity Sector. The overall objective of the equity portfolio is to provide growth of capital. Not more than 65% of the Pension Fund, based on the cost, shall be invested in common stocks at any given time, and not more than 5% of the Pension Fund shall be invested in the preferred and common stocks of any one corporation in accord with Section 6 of the Pension Contract/Act. The Trustees desire that when selecting issues the primary focus should be on large, high quality, well managed American companies possessing strong balance sheets. A smaller portion of the equity portfolio, up to 20% based on cost, may be devoted to good quality, well capitalized companies with revenues ranging from approximately 500 million to 2.0 billion dollars that possess above average long-term growth potential. Additionally, up to 5% of the equity portfolio, based on cost, may be invested in smaller emerging growth companies possessing exceptional capital appreciation potential. The shares of all domestic equity investments should trade on any one of the recognized national stock exchanges, including NASDAQ. Equity investments in corporation stocks, including common and preferred stocks, of any corporation created or existing under the laws of any foreign government or political subdivisions or agencies thereof are permissable, limited to a combined total of international equities and international fixed income of 25% of the total fund based on market value. Investments in Real Estate Investment Trusts (REITs) are permitted.

International Investments. Under Section 6(3) of the pension contract act, investment in 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 any foreign government or political subdivision or agencies thereof, 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 any foreign government or political subdivision or agencies thereof are permissable. Investments in permissable foreign securities shall not exceed 25% of the total portfolio at market value.

8. **RISK AND DIVERSIFICATION**: Investments shall be diversified to the extent practicable to control the risk of loss resulting from overconcentration in a specific maturity, issuer, instrument, dealer or bank through which financial instruments are bought and sold. See also #4 – Investment and Fiduciary Standards and #7 – Portfolio Composition.

The Investment Manager(s) shall seek the highest possible return consistent with prudent regard for risk, safety of capital, diversification, legal considerations, liquidity, and fiduciary responsibility. The Pension Fund's investment approach should be based on long-term investment horizons enabling interim fluctuations to be viewed with

appropriate perspective. Diversification strategies within the established guidelines shall be reviewed and revised periodically, as deemed necessary by the Board.

9. **EXPECTED ANNUAL RATE OF RETURN**: The desired investment objective is a long-term rate of return on Base plan assets of at least 8.5%. The Trustees have an established policy to review the long term rate of return on plan assets at least once every five years, which includes a long term forecast of the Fund's assets and liabilities. The long term forecast includes a simulation of future capital markets under a wide range of economic scenarios and captures the movement of assets and liabilities under those varying economic conditions as well as the allocation of investment returns between the Base, PRAA, DROP, and 13th Check accounts.

   The Trustees realize that market performance can vary significantly and that an 8.5% rate of return may not be attainable during every time period. It is also understood that the rate of return may exceed 8.5% for many time periods.

   Over a complete business cycle, the Plan's overall annualized total return, after deducting for advisory, money management, and custodial fees, as well as total transaction costs, is expected to perform at or above the median of a balanced fund universe or an appropriate customized index prepared by the Pension Fund's professionally qualified independent consultant.

   The Trustees realize the difficulty of achieving the Plan's investment objectives in light of the uncertainties and complexities of contemporary financial markets. The Trustees also realize that some risk must be assumed to achieve the Plan's long-term investment objectives; therefore, although a balanced approach is required, the Investment Manager(s) should emphasize common stocks, which historically as a class have outperformed other investment alternatives over the long term. The Trustees expect their Investment Manager(s) to use a fundamental approach rather than a technical or other approach, the objective being to achieve superior result while assuming only average market risks. The principles which lead the Investment Manager's research and portfolio management effort should include:

   Formulation of well-planned objectives and strategies

   Flexibility and sensitivity to change

   Achievement of acceptable return on invested capital

   Protection of assets during periods of economic adversity

   Ongoing search for value and growth potential.

10. **THIRD PARTY CUSTODIAL AGREEMENTS**: The Board shall contract with a third party custodian which shall have the level of experience and expertise in providing custodial services to plans and funds similar to those of the Pension Fund. The custodian shall act as a fiduciary in the administration of the accounts utilizing appropriate internal controls to assure the safety of assets from such things as fraud, collusion, loss, diversion, etc. The custodian will hold all securities on behalf of the Pension Fund and only deliver

securities upon proper instruction from those authorized to provide such instruction or direction.

Delivery vs. Payment (DVP) for transfer of securities into and out of the pension fund account will be utilized. Transfers of cash and securities other than through the DVP method will occur upon the direct authorization from the Board or staff authorized by the Board to conduct the activities of the Board, such as providing funds to pay legitimate expenses or for activities within the accounts.

11. **MASTER REPURCHASE AGREEMENT**: The contract format by which a master repurchase agreement would be governed would be the PSA – The Bond Market Trade Association, which is utilized and approved by the Government Finance Officers Association (GFOA). All repurchase agreement transactions, if any, shall adhere to the requirements of the master repurchase agreement.

12. **BID REQUIREMENT**: The Investment Manager(s), when executing trades for the Pension Fund, shall have full discretion in the selection of brokers. The Manager shall have a fiduciary responsibility to select only those brokers who provide best execution or a high level of service benefiting the Pension Fund, when appropriate.

    The Board shall determine the fund's asset allocation based on advice from the actuary, Board staff and Investment Manager(s) regarding cash flow needs and market conditions, and the Board shall direct the Investment Manager(s) to analyze and select specific optimal types of investments to comply with the established asset allocation, and competitively bid the security in question when feasible and appropriate.

13. **INTERNAL CONTROLS**: The Board shall establish a system of internal controls which shall be in writing and made a part of the Board's operational procedures. The internal controls shall be designed to prevent losses of funds which might arise from fraud, error, misrepresentation by third parties, or imprudent actions by the board or its staff. Such controls shall be reviewed and evaluated at least annually by the Board's external certified public accountants.

    The City of Tampa's external certified public accountants shall also audit the pension fund annually as part of the City of Tampa's external, independent audit for inclusion in the City of Tampa's Consolidated Annual Financial Report (CAFR).

    The external certified public accountant retained by the Board of Trustees shall provide a monthly compilation of financial statements of the pension plan. In addition, the external certified public accountants shall also reconcile the financial statements to monthly reports provided by the Board's Investment Manager(s) and Custodian(s).

14. **CONTINUING EDUCATION**: In accordance with the pension contract/act, the general administration and responsibility for the proper operation of the Pension Fund is vested in the Board of Trustees. In administering the Pension Fund, it is the fiduciary responsibility of Trustees to avail themselves of educational and training seminars and conferences in connection with pension related matters.

Each trustee shall be required to attend not less than 48 hours of continuing professional education during their three-year term on the Board (11/1 – 10/31), but not less than 12 hours per term year, in matters relating to investments and the Board's responsibilities. Any trustee elected or appointed to the board who is filling a partial term shall be responsible for the prorata share of continuing professional education.

15. **REPORTING**: The Investment Manager(s) for the City of Tampa Firefighters and Police Officers pension fund shall generate monthly reports, which shall include data on investments in the portfolio by class or type, book value, market value and rates of return earned as of the report date. Upon reasonable notice, the Investment Manager shall provide any information relevant to the Fund as requested by the Board of Trustees.

    The custodian bank shall provide monthly reports, which shall include data on the investments in the portfolio by class or type, book value, market value, purchases and sales, summary totals of cash receipts and disbursements, and commission expenses incurred, listed by broker, as of the report date.

    The Fund's professionally qualified independent consultant shall provide quarterly performance measurement reports.

    The fund's external certified public accountant shall provide a monthly compilation of financial statements.

    All such reports shall be available to the public.

16. **FILING OF INVESTMENT POLICY**: It is the intention of the Trustees to periodically review all investment goals, guidelines and objectives. Recommendations may be submitted by the Investment Manager(s) or the professionally qualified independent consultant to the Trustees for their consideration at any time. Upon adoption by the Board, the investment policy shall be promptly filed with the Department of Management Services and the plan's sponsor and consulting actuary. The effective date of the investment policy, and any amendments thereto, shall be the 31st calendar day following the filing date with the plan sponsor.

17. **VALUATION OF ILLIQUID INVESTMENTS**: For each actuarial valuation, the Board, the Board's professionals or staff shall verify the determination of the fair market value for illiquid investments for which a generally recognized market is not available or for which there is no consistent or generally accepted pricing mechanism. Any investment for which fair market value is not provided, requires disclosure to the Department of Management Services and the Board of Trustees.

18. **DIVESTITURE**: The Board is prohibited from directly investing in 'Scrutinized Companies' identified in the periodic publication by the State Board of Administration ("SBA list", updated on their website www.sbafla.com/fsb/). The Board of Trustees identified no direct or indirect holdings in any scrutinized company that the board had to sell, redeem, divest, or withdraw publicly traded securities prior to September 10, 2010 as was required by statute. If a company is subsequently removed from the SBA list, the manager can acquire and hold that security. Indirect investment in 'Scrutinized Companies' (through pooled funds) are governed by the paragraph below.

The Investment Consultant/Manager, on behalf of the Plan, shall send a letter to any pooled fund referring the investment manager to the listing of 'Scrutinized Companies' by the State Board of Administration ('SBA list'), on their website www.sbafla.com/fsb/. This letter shall request that they consider removing such companies from the fund or create a similar actively managed fund having indirect holdings devoid of such companies. If the manager creates such a similar fund, the Plan shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards. However, after sending the required correspondence, if the holdings are not removed or a similar actively managed fund devoid of such companies is not created, the Plan is not required to sell the pooled fund. For the purposes of this policy, a private equity fund is deemed to be an actively managed investment fund.

Chairman

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Appendix A
Section 6 of the Pension Contract/Special Act

Section 6 of Pension Contract

"The Board shall have exclusive charge of the investment of any surplus in said fund not needed for the current obligations thereof; and said funds shall be managed by said Board in accordance with the following:

(1) That the Board shall retain the services of one or more nationally recognized professional investment counselors.

(2) That not less than once every six (6) months a written opinion shall be obtained from the investment counselor or counselors as to the overall condition and composition of the investment portfolio.

(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 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 Unites States, or 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 judgement and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management 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 twenty-five per centum (25%) of said fund, based on the total market 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. The investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law."

PENSION BOARD POLICIES

FIREFIGHTER & POLICE OFFICERS PENSION FUND OF THE CITY OF TAMPA

Policy Number: 706	
Policy: Pension Fund Expense Reimbursement / Cost Allocation	
Eff. Date:	09/27/1983 02/23/2012
Reference:	Board Minutes

POLICY:

The Board of Trustees shall reimburse the City of Tampa for reasonable cost allocation of Pension fund related expenses, such as postage, interoffice mail, computers, communications services, etc.

The cost allocation shall be submitted to the pension fund monthly by the City of Tampa and will be reviewed for reasonableness by the F&P Pension internal accountant and must be approved by the Plan Administrator prior to payment.

Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 708
Policy: Actuarial Assumptions and Valuations
Eff. Date: 08/03/76 01/23/79 11/18/83 11/13/84 07/11/00 05/28/15
Ref: Board Minutes

POLICY:

The Board of Trustees shall on an annual basis, review the actuarial assumptions for appropriateness. The Board may change actuarial assumptions from time to time based upon advice from the fund's actuary and evolving actuarial experience of the plan. The Board shall adopt the actuarial assumptions and such direction will be provided to the fund's actuary as evidenced in the minutes prior to the preparation of the annual actuarial valuation.

The fund's actuary shall use the fiscal year end date of September 30th for preparation of annual actuarial valuations reports. The actuary shall use the "dollar-weighted" rate of return method for computation of Section 23 of the pension contract and monies owed by the City of Tampa. The census measurement data for actuarial valuations shall be September 30th.

The Board of Trustees has a duty to adopt sound actuarial methodologies under Chapter 112, Part VII, Actuarial Soundness of Retirement Systems.

Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 713
Policy: Treatment of Investment Returns of Less Than 5% Including Market Losses
Eff. Date: 08/26/04 12/16/15
Ref: Pension contract, board minutes, *Coniglio* stipulation, Mellon letter dated 4/15/2004

POLICY:

1. Investment of Pension Fund assets are made without consideration of whether such assets for actuarial or accounting purposes are considered as Base Account assets, Post Retirement Adjustment Account assets, or DROP account(s) assets.

2. Allocation of Negative Asset Returns -- When the size of the Fund (excluding the 13th check account and DROP accounts) determined on a market value basis, is less than 0% for any year ending on September 30th when compared to the market value of Fund (excluding the 13th check account and DROP accounts) on the previous September 30th, the investment loss shall be applied proportionately between the Base Account and the Post Retirement Adjustment Account based on the relative size of each of said accounts to their combined total.

3. The *Coniglio* Stipulation and Agreement with Respect to Section 23(1) requires the Base Account (f/k/a the Main Fund) to overcome or make up any years in which the Pension Fund did not earn 5% before any additional monies are credited to the Post Retirement Adjustment Account. In other words, no additional monies are credited to the Post Retirement Adjustment Account until all years in which the Base Account was not credited with the 5% earnings are overcome by subsequent earnings. This maintains the actuarial soundness of the Base Account.

4. Amount of Make-Up -- When the size of the Base Account on September 30th determined on a market value basis is less than the size of the Base Account on the preceding September 30th plus that amount had the Base Account been credited with 5% investment earnings of the Pension Fund (excluding the 13th Check Account and DROP accounts), the make-up shall be the difference between the size of the Base Account on the preceding September 30th plus the amount that would have been credited to the Base Account had the Pension Fund (excluding the 13th Check Account and DROP accounts) earned said 5% and the market value of assets actually in the Base Account on September 30th. This paragraph applies when there is a positive investment return less than 5% or when there is a negative investment return.

5. Recognition of Make-Up -- When the Pension Fund earns less than the assumed investment yield of 5% (i.e., either a positive investment return less than 5% or a negative investment return), subsequent positive earnings shall first be used to make up prior years when the Base Account suffered a market value loss and/or was not credited with the 5% investment earnings of the Pension Fund (excluding the 13th Check Account and DROP accounts), beginning with the earliest year first, before any more monies are credited to the Post Retirement Adjustment Account.

6. Any changes to this policy shall be agreed upon by the Accountant, Actuary, Administrator, and Attorney prior to approval by the Board of Trustees.

Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 801
Policy: Pension Verification Questionnaire
Eff. Date: 03/25/80 08/26/80 12/14/99 08/23/07 10/28/15
Ref: Board Minutes

POLICY:

The Pension Office shall, on a bi-ennial basis (every other year), send out pension verification questionnaires to pensioners which shall be completed, notarized and returned within a designated period of time.

Failure to complete the questionnaire by the specified date will result in subsequent pension payments being held at the pension office until the pensioner has complied.

Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 806
Policy: Pension Board Trustee & Board Officer Elections
Eff. Date: 7/23/09 04/27/16
Ref: Board Minutes

POLICY:

Trustee Elections

Mail ballots are to be used in Pension Board elections, and members voting shall qualify the same as in a general election.

Alternatively, a member may vote in person at the Tampa Fire & Police Pension Fund office on a designated election day.

Tabulation of votes in Pension Board elections shall be the responsibility of the Supervisor of Elections Office, Hillsborough County.

Board Officer Elections

Election of Board officers shall be held at the **end** of the November pension board meeting each year.

Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 808
Policy: Furnishing of Plan Members' Addresses
Eff. Date: 10/11/88 07/11/00 12/17/03 01/27/11 07/22/15 01/30/19
Ref: Board Minutes 119.071 Florida Statutes

POLICY:

Pursuant to Florida Statutes 119.071, the following information for active and retired police officers and firefighters is exempt from public disclosure:

- Social security numbers, dates of birth, addresses, phone numbers, and photographs of the member, the member's spouse, and the member's children
- Names of the member's spouse and children
- Places of employment of the member's spouse and children
- Names and locations of schools and daycare facilities attended by the member's children
- Medical information

The Board and staff shall not conduct mailings to retired or active plan members on behalf of any organization other than the Pension Board.

If a duly qualified candidate running for trustee chooses to conduct a mailout to plan members who may vote in the trustee election, the pension office staff shall prepare the mailing labels within a reasonable time at a reasonable fee. The trustee candidate's mailing must be stuffed and stamped but unsealed, and the F&P pension office staff shall apply the labels in the pension office and mail out from the pension office. The trustee candidate may not have access to the mailing after labels have been affixed. All costs are the responsibility of the candidate.

Additionally and upon request by the TPD Memorial Committee, the pension office shall affix mailing labels on stuffed and stamped envelopes provided by the TPD Memorial Committee for survivors of police officers who were killed in the line of duty and who are drawing pension benefits as of the date of the mailing. The TPD Memorial Committee may not have access to the mailing after labels have been affixed. All costs are the responsibility of the TPD Memorial Committee.

The pension office maintains a list of retirees and spouses who have passed away while in receipt of pension benefits. Any person or organization wishing to confirm the passing of current and former plan members may contact the pension office.

Gregory P. Rad
Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number:	812
Policy:	Ex Parte Communications
Eff. Date:	09/26/95 12/16/15
Ref:	Board Minutes; Resolution

Be it resolved by the Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa

Section 1. That the Board of Trustees does hereby invoke the provisions of Section 286.0115, Florida Statutes, to provide that both written and oral ex parte communications with Trustees on quasi-judicial matters shall be presumed not to be prejudicial.

Section 2. That communication with Trustees regarding quasi-judicial matters shall be in accordance with the following guidelines:

A. When communication is received in written form, the original or a copy of that communication shall be made available for inspection in the Pension Office.

B. When written communication is received, the original or a copy shall be filed as part of the record prior to the vote being taken on the merits.

C. When communication is received in other than written form, the Trustee who received that communication shall disclose the substance of the communication, as well as the identity of the person, group, or entity engaging in the communication, on the record prior to the vote being taken on the merits.

D. Any member of the public interested in commenting on any communication shall do so when addressing the Board of Trustees according to the Trustees' policies and procedures.

Section 3. That this Resolution shall take effect immediately upon adoption.

ADOPTED by the Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on the 26th day of September, 1995 and reaffirmed on the 16th day of December, 2015.

Attested by:

Chairman

Plan Administrator

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number:	814
Policy:	Pensioner Addresses
Eff. Date:	11/09/99 02/23/12 03/25/15
Ref:	Board Minutes

POLICY:

Every pensioner shall provide the pension office with a valid mailing address for mailing of pension checks (or advice notices if direct deposited), correspondence, verification questionnaires, insurance information, election information, and other information as necessary.

Address changes shall be either made in writing, with an original signature of the pensioner, or via the Fund's website. Change of address requests received via the Fund's website will only be accepted if the pensioner has direct deposit on file and does not receive a paper check.

It is the responsibility of the pensioner to keep the correct and current address on file with the pension office. Retiree Change of Address forms are available online or can be obtained by calling the pension office. Additionally, a written letter with an original signature of the pensioner can be used in lieu of an address change form.

Retiree Change of Address form:
http://www.tampagov.net/fire-and-police-pension/info/forms

Electronic Change of Address submission:
https://www.tampagov.net/fire-and-police-pension/retiree-change-of-address

Address changes must be received in the pension office no later than the 15th of each month in order to take effect for pension checks or advice notices being mailed at the end of that month.

Pension checks and advice notices are not forwarded by the U.S. Postal Service, and those envelopes are marked "Do Not Forward". Election information and ballots are not forwarded by the U.S. Postal Service, and those envelopes are marked "Return Service Requested."

If a pensioner fails to provide the pension office with a valid address, then pension check(s) (including direct deposits) will be held by the pension office until a valid address is provided.

Chair

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 815
Policy: Pension Board Chairman Responsibilities and Authority
Eff. Date: 09/27/07 02/23/12 07/30/14 12/16/15
Ref: Board Minutes, Pension Contract

POLICY:

The responsibilities and authority of the Chairman of the Pension Board of Trustees include the following:

- Conduct efficient, effective, and orderly pension board meetings, including hearings before the board, per board policies and procedures, agenda, and Robert's Rules of Order.
- Media relations - the Chairman shall be the spokesperson for the Board of Trustees.
- Act with specific authority delegated to the Chairman by the Board.
  - For example, attend litigation strategy sessions with attorneys and plan administrator.
  - Evaluate potential settlement offers in conjunction with attorneys and plan administrator in order to determine recommendation for consideration by the full Board.
- Calling of special or emergency board meetings or Executive Sessions if the need arises
- F&P pension office staff discipline appeals (per P&P 607).
- Attend meetings with City of Tampa departments and officials on matters of mutual concern.
- Consult with and assist Plan Administrator in problem solving and conflict resolution. Address complaints that are unable to be resolved at a lower level.
- Participate in meetings with Board professionals and vendors as directed by the Board.
- Confer with plan administrator and board counsel on matters requiring attention in between or before board meetings so that a recommendation can be made at the next full board meeting.
- Provide guidance and direction to plan administrator as needed or requested.
- Participate in committee meetings if on committee, or may choose to attend as guest of committee for educational purposes.

Sign:

- Minutes after approved by the board.
- Vendor/professional contracts/engagement letters as approved by the board.
- Travel forms.
- Pension office staff performance evaluations and personnel related forms.
- Annual report to the state.
- Receipt letters from state for state premium tax monies.
- Invoices exceeding $2,000 that are not per fixed contract amounts (in accordance with the Chairman's emergency authority as provided below).
- Correspondence to actives and retirees as approved by the board.
- Policies and procedures after adoption by the board.

The Chairman shall not be authorized to:

- Countermand previous board direction without board approval.
- Establish board direction without matter(s) first coming before the board.
- Commission formal legal opinions, actuarial studies or other professional studies without board approval. This provision is not intended to affect the Chairman's or Vice Chairman's emergency authority as provided below.
- Change processes, practices, or procedures of pension board and pension office operations without board approval.

In the case of an emergency, the Chairperson of the Board of Trustees shall be granted emergency authority by the Board to make time-critical decisions pertaining to the efficient and cost-effective administration of the pension fund.

Approval of emergency authority expenditures shall not exceed $10,000 per occurrence and the Board shall be notified of the exercise of emergency authority exceeding $2,000 under the Chair's report at the next board meeting, which shall be reflected in the corresponding meeting minutes.

The Vice Chairman shall execute the same responsibilities and authority in the absence of the Chairman.

Chairman

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PENSION BOARD POLICIES

FIREFIGHTERS & POLICE OFFICERS PENSION FUND OF THE CITY OF TAMPA

Policy Number: 816
Policy: Pension Plan Administrator Authority
Eff. Date: 10/24/00, 6/5/01 02/23/12, 07/30/14
Ref: Board Minutes

POLICY:

The Fire and Police Pension Plan Administrator shall be authorized to approve the following expenses to ensure the efficient and cost-effective daily administration of the pension fund:

- Established payments on contracts with professionals approved by the board (annual, quarterly, monthly, etc.--set payments as defined in contract).
- Routine invoices less than $2,000 pertaining to daily operations, such as copies of medical records, disability evaluation costs, routine maintenance and operation of the pension office, such as power, water, cleaning, etc. This may also include expenses related to necessary investigations, as agreed on by the Chair and general board attorney.

The Plan Administrator and appropriate staff shall audit the board travel reports and credit card statements to verify that the trustee travel and training expenditures charged to the credit card by trustees and staff are appropriate and accurate prior to authorizing payment on the consolidated account or authorizing reimbursement to the trustee.

The Plan Administrator shall not be authorized to approve the following:

- Special projects commissioned by the board from professionals, such as actuarial studies, formal legal opinions, etc. Special projects by professionals shall be quoted in advance on a "not to exceed" basis for board approval in advance.
- Invoices for professional fees that vary from month to month, depending upon the services rendered, such as general board counsel.

In order to ensure the efficient and cost-effective daily administration of the pension fund and considering that the Board of Trustees generally meets only once monthly, the Board of Trustees hereby delegates the authority for the Plan Administrator to work with the general board counsel on an as-needed basis in preparation for matters to come before the board and in matters which are time-critical and under stringent deadlines. The Plan Administrator shall be judicious in the use of general board counsel's professional time and shall review general board counsel's invoices for accuracy prior to submission to the

Board for approval. Examples of time-critical matters are review of drafts of local bills under negotiations between the City and Unions prior to submission to the local delegation, state legislature or state agencies under stringent deadlines; legal review of unusual occurrences for which there are no precedents, policies or procedures and Board action is required in a timely fashion, such as determination of survivor benefits for death while in active service; and matters arising immediately prior to a Board meeting wherein legal guidance is necessary to make an educated recommendation to the Board for action.

In the case of an emergency, invoices greater than or equal to $2,000 not established by contract shall require the approval of the Chair, consistent with Policy 815, and invoices greater than $10,000 shall require approval of the full board.

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 817
Policy: Communications with Pension Fund Professionals
Eff. Date: 2/26/04 12/16/15
Ref: Board Minutes

POLICY:

In order to clarify the channels of communication, the Board requires that all communications with and requests for information from pension fund professionals working for the Board of Trustees be coordinated through the Plan Administrator.

This Board direction/policy is to accomplish the following:

- to clarify the channels of communication for the efficient and cost-effective daily administration of the pension fund;
- as a cost containment measure so that a single, consistent message or request is communicated to/from professionals rather than multiple contacts from multiple sources which may not be consistent, which could drive up professional fees incurred;
- to properly document and communicate to the appropriate professional and to the Board of Trustees when a question or issue arises so that all parties may be uniformly informed of the question(s) or issue(s); and
- to maintain an open and clear line of communication between the Board, board professionals, and pension office.

For communications between Trustees and the Fund's Attorney, the following shall apply:

- Any single trustee is authorized to meet or speak with the Pension Fund Attorney one-on-one for up to 2 hours per calendar year to discuss pension related business.
- Trustees shall be judicious in utilizing this one-on-one method and sensitive of the cost.
- Trustees shall notify the Plan Administrator or staff of the time incurred so that bills may be reconciled.
- The Pension Fund Attorney shall clearly articulate the trustee contact and topic on the billing so that the rest of the board is aware of the contact and fees.

Professional fees are to continue to be authorized by the board either on a contractual basis as approved by the board or on a not-to-exceed fee quoted in advance and approved by the board. This policy does not amend or exceed the authority contained in P&P 815 – Chair's Emergency Authority or 816 – Plan Administrator Authority, nor is it intended to limit contact of professionals from current trustees.

Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 818
Policy: Public Records Requests
Eff. Date: 05/27/04 12/16/10 12/16/15
Ref: Board Minutes, Florida Statutes

POLICY:

Public records requests are to be provided within a reasonable time at a reasonable cost in compliance with Chapter 119, Florida Statutes, and charges for such public records requests are not to exceed the statutory provisions.

At present, the costs charged are:	Copies	15 cents each
	Labels	30 cents per sheet
	CDs/DVDs	$5.00 each
	USB flash drives	cost
	Staff time	cost of labor when request is extensive (including salary and benefits)

Public record requests must be prioritized within existing staff workload and deadlines.

Extensive public record requests are those requiring extensive clerical or supervisory assistance or extensive use of information technology resources or any public records request requiring extensive staff time to compile, including redacting information that is exempt from public disclosure under the state statutes or confidential medical records.

Any public records request requiring more than fifteen (15) minutes of staff time to compile will be considered to be extensive and will require that an estimated cost for completion be provided to the requestor for advance approval by the requestor. Extensive public records requests with an estimated cost in excess of $20.00 require that the estimated amount be paid in advance. Once the final, actual cost has been calculated at the completion of the preparation of the extensive public records request, if the actual cost exceeds the estimated cost already paid, any additional payment will be required upon receipt of the records. When the paid estimated cost exceeds the actual cost, a refund shall be prepared and returned to the requestor as soon as possible within the next monthly pension accounts payable cycle.

In calculating the cost of labor for the personnel associated with the special service charge for the completion of replying to an extensive public record request, the personnel's salary, as well as benefits will be included. This charge will apply both to inspection and copying of records.

In order to have a public record request fulfilled, the individual making the public record request must first pay any money due for previous public record requests.

While the pension office prefers payment by check or money order, the pension office will accept cash payment up to $20.00.

Payment for public record requests of $20.00 or less is due prior to delivery of the records.

Payment for public record requests estimated to be in excess of $20.00 is due upon acceptance/approval of the estimated cost and authorization to proceed.

Chairman

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PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 819
Policy: Periodic Review of Board Professionals
Eff. Date: 03/22/12 12/16/15
Ref: Board Minutes

POLICY:

The Chairman shall appoint a committee annually to evaluate expiring contracts for services provided by the professionals and vendors working under contract for the Board of Trustees. Upon completion of the performance evaluation, the committee shall make recommendations to the Board regarding retention. However, a Trustee or the Plan Administrator may request review of a specific professional or vendor at any time should there be a perceived need or concern.

Chairman

Policy Number: 820
Policy: Committee Meetings of the Board
Eff. Date: 03/22/2012
Ref: Board Minutes

PENSION BOARD POLICIES

FIREFIGHTERS & POLICE OFFICERS PENSION FUND OF THE CITY OF TAMPA

POLICY:

Pension office staff shall notify all trustees of all public/committee meetings of the Board by each trustee's preferred means of contact.

Nothing shall be inferred as requiring staff to coordinate the schedule of any committee meeting around the schedule of a trustee who is not a member of the committee.

Chairman

PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA

Policy Number: 900
Policy: Marital Separation
Eff. Date: 04/25/18
Ref: Board Minutes

POLICY:

1. Florida domestic relations law recognizes that pension benefits payable by the Fund may be considered a marital asset and may be subject to division between parties in the event of marital separation. The purpose of this policy is to recover costs expended by the Fund due to involvement in the marital separation of a member or retiree.

2. In the event that a member or retiree is a party to dissolution of marriage proceedings, and his/her benefits become a subject of that proceeding, the member or retiree shall be required to give notice to the Fund.

3. All costs associated with preparation of any draft order or the correction of any domestic relations order shall be borne by the member or retiree. Therefore, all charges and fees are to be paid directly to the Fund by the member or retiree. The fees are billable at the time the cost is incurred by the Fund. The member may be charged the legal rate of interest in the State of Florida for any delay in payment. Members are deemed to have consented that any application for retirement shall not be processed until such time as the Fund is reimbursed for all outstanding costs and fees. In the case of a retired participant, the retired member is deemed to have consented that no 13th Check shall be distributed until all outstanding fees and costs are paid.

   Costs and fees shall include:
   a. All hourly/daily fees and expenses accrued by a professional of the Fund to attend hearings, depositions, trials, and travel related thereto. Professionals may include the Fund's attorney, accountant, actuary, or other professional retained by the Fund.
   b. Fees accrued as a result of a Fund professional's involvement in reviewing the member's or retiree's pension file, court orders, court proceedings, transcripts, depositions, communication with attorneys or the court, or any other cost charged to the Fund in relation to a marital separation, except as listed below in 3.c.
   c. Fees accrued as a result of a Fund professional's communication with staff regarding a member's or retiree's marital separation that exceeds 30 minutes.
   d. All salary and expenses accrued by a staff member to attend hearings, depositions, trials, and travel related thereto. Salary shall include the staff member's hourly rate plus the benefits load rate of 30%.

4. All court orders received by the Fund shall be made a part of the record of the member and the Plan Administrator shall be responsible for arranging for distribution in accordance with the terms of the order and consistent with the policies of the Fund. There shall be no distribution of the member's benefits until all domestic relations orders and/or settlement agreements are complied with or satisfied.

5. No payment may be made to any person who is not a member or retiree of the Fund, except in the case of an income deduction order for alimony or child support. **Qualified Domestic Relations Orders (QDROs) will not be honored by the Fund.** No distribution may be made to any person who is still employed by the City of Tampa as a police officer or firefighter and who is a contributing member to the Tampa Fire & Police Pension Fund.

Gregory P. Reed
Chairman

The Florida Senate

2017 Florida Statutes

Title X PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	**Chapter 112** **PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS**

CHAPTER 112
PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS

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PART I
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112.011 Disqualification from licensing and public employment based on criminal conviction.—

(1)(a) Except as provided in s. 775.16, a person may not be disqualified from employment by the state, any of its agencies or political subdivisions, or any municipality solely because of a prior conviction for a crime. However, a person may be denied employment by the state, any of its agencies or political subdivisions, or any municipality by reason of the prior conviction for a crime if the crime was a felony or first-degree misdemeanor and directly related to the position of employment sought.

(b) Except as provided in s. 775.16, a person may be denied a license, permit, or certification to pursue, practice, or engage in an occupation, trade, vocation, profession, or business by reason of the prior conviction for a crime if the crime was a felony or first-degree misdemeanor that is directly related to the standards determined by the regulatory authority to be necessary and reasonably related to the protection of the public health, safety, and welfare for the specific occupation, trade, vocation, profession, or business for which the license, permit, or certificate is sought.

(c) Notwithstanding any law to the contrary, a state agency may not deny an application for a license, permit, certificate, or employment based solely on the applicant's lack of civil rights. However, this paragraph does not apply to applications for a license to carry a concealed weapon or firearm under chapter 790.

(2)(a) This section does not apply to any law enforcement or correctional agency.

(b) This section does not apply to the employment practices of any fire department relating to the hiring of firefighters.

(c) This section does not apply to the employment practices of any county or municipality relating to the hiring of personnel for positions deemed to be critical to security or public safety pursuant to ss. 125.5801 and 166.0442.

(3) Any complaint concerning the violation of this section shall be adjudicated in accordance with the procedures set forth in chapter 120 for administrative and judicial review.

History.—ss. 1, 2, 3, ch. 71-115; s. 1, ch. 73-109; s. 20, ch. 81-24; s. 30, ch. 88-122; s. 1, ch. 90-266; s. 678, ch. 95-147; s. 3, ch. 2002-169; s. 3, ch. 2011-207; s. 90, ch. 2013-183.

112.0111 Restrictions on the employment of ex-offenders; legislative intent; state agency reporting requirements.—

(1) The Legislature declares that a goal of this state is to clearly identify the occupations from which ex-offenders are disqualified based on the nature of their offenses. The Legislature seeks to make employment opportunities available to ex-offenders in a manner that serves to preserve and protect the health, safety, and welfare of the general public, yet encourages them to become productive members of society. To this end, state agencies that exercise regulatory authority are in the best position to identify all restrictions on employment imposed by the agencies or by boards that regulate professions and occupations and are obligated to protect the health, safety, and welfare of the general public by clearly setting forth those restrictions in keeping with standards and protections determined by the agencies to be in the least restrictive manner.

(2) Each state agency, including, but not limited to, those state agencies responsible for professional and occupational regulatory boards, shall ensure the appropriate restrictions necessary to protect the overall health, safety, and welfare of the general public are in place, and by December 31, 2011, and every 4 years thereafter, submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report that includes:

(a) A list of all agency or board statutes or rules that disqualify from employment or licensure persons who have been convicted of a crime and have completed any incarceration and restitution to which they have been sentenced for such crime.

(b) A determination of whether the disqualifying statutes or rules are readily available to prospective employers and licensees.

(c) The identification and evaluation of alternatives to the disqualifying statutes or rules which protect the health, safety, and welfare of the general public without impeding the gainful employment of ex-offenders.

History.—s. 2, ch. 2011-207.

112.021 Florida residence unnecessary.—Except as expressly provided by law, there shall be no Florida residence requirement for any person as a condition precedent to employment by any county.

History.—s. 3, ch. 69-20; s. 23, ch. 71-355; s. 25, ch. 79-190.

112.042 Discrimination in county and municipal employment; relief.—

(1) It is against the public policy of this state for the governing body of any county or municipal agency, board, commission, department, or office, solely because of the race, color, national origin, sex, handicap, or religious creed of any individual, to refuse to hire or employ, to bar, or to discharge from employment such individuals or to otherwise discriminate against such individuals with respect to compensation, hire, tenure, terms, conditions, or privileges of employment, if the individual is the most competent and able to perform the services required.

(2)(a) Any person, firm, corporation, association, or other group or body, jointly or severally, who is aggrieved by any decision, regulation, restriction, or resolution adopted by the governing body of any county or municipal agency, board, commission, or department which is an unlawful employment practice under this section may apply to such agency, board, commission, or department at any time for a modification or rescission thereof. If such modification or rescission is refused, any such person, firm, corporation, association or other group or body may, within 30 days after such refusal, but not thereafter, institute original proceedings for relief in the circuit court of the county.

(b) There is no right to apply to the court for relief on account of any order, requirement, decision, determination, or action of any county or municipal officer pursuant to this section unless there has first been an appeal therefrom to the governing agency, board, commission, or department to which such officer is responsible.

(3) Nothing in this section shall be construed to prohibit alternative relief through local civil service systems and boards provided for in s. 14, Art. III of the State Constitution.

History.—s. 1, ch. 69-334; s. 2, ch. 84-125.

112.043 Age discrimination.—It shall be the public policy of the state that no officer or board, whether state or county, shall discriminate in the employment of any person solely on the basis of age. Persons who apply for employment with the state or any county of the state shall be selected on the basis of training, experience, mental and physical abilities, and other selection criteria established for the position. Unless age restrictions have been specifically established through published specifications for a position, available to the public, the employing authority shall give equal consideration to all applicants, regardless of age.

History.—s. 1, ch. 69-141.

112.044 Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy.—

(1) LEGISLATIVE INTENT; PURPOSE.—The Legislature finds and declares that in the face of rising productivity and affluence, older workers find themselves disadvantaged, both in their efforts to retain employment and in their efforts to regain employment when displaced from jobs. The setting of arbitrary age limits, irrespective of capability for job performance, has become a common practice, and certain otherwise desirable practices may work to the disadvantage of older persons. In comparison to the incidence of unemployment among younger workers, the incidence of unemployment, especially long-term unemployment with resultant deterioration of skill, morale, and employer acceptability, is high among older workers, whose numbers are great and growing and whose employment problems are grave. In industries affecting commerce, the existence of arbitrary discrimination in employment because of age burdens commerce and the free flow of goods. It is the purpose of this act to promote employment of older persons based on ability rather than age and to prohibit arbitrary age discrimination in employment.

(2) DEFINITIONS.—For the purpose of this act:

(a) "Employer" means the state or any county, municipality, or special district or any subdivision or agency thereof. This definition shall not apply to any law enforcement agency or firefighting agency in this state.

(b) "Employment agency" means any person, including any agent thereof, regularly undertaking, with or without compensation, to procure employees for an employer, including state and local employment services receiving federal assistance.

(c) "Employee" means an individual employed by any employer.

(3) PROHIBITED ACTIVITIES; EXCEPTIONS.—

(a) Except as provided in paragraph (f), it is unlawful for an employer to:

1. Fail or refuse to hire, discharge or mandatorily retire, or otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment because of age.

2. Limit, segregate, or classify employees in any way which would deprive, or tend to deprive, any individual of employment opportunities, or otherwise adversely affect an individual's status as an employee, because of age.

3. Reduce the wage rate of any employee or otherwise alter the terms or conditions of employment in order to comply with this act, unless such a reduction is with the employee's express or implied consent.

(b) Except as provided in paragraph (f), it is unlawful for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of age or to classify or refer for employment any individual on the basis of age.

(c) Except as provided in paragraph (f), it is unlawful for a labor organization to:

1. Exclude or expel from its membership, or otherwise discriminate against, any individual because of age.

2. Limit, segregate, or classify its membership, or fail or refuse to refer for employment any individual, in any way which would limit, deprive, or tend to deprive the individual of employment opportunities or which would otherwise adversely affect the individual's status as an employee or as an applicant for employment solely because of age.

3. Cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It is unlawful:

1. For an employer to discriminate against any employee or applicant for employment;

2. For an employment agency to discriminate against any individual; or

3. For a labor organization to discriminate against any member or applicant for membership,

because such employee, applicant for employment, individual, member, or applicant for membership has opposed any practice made unlawful by this section or because the employee, applicant for employment, individual, member, or applicant for membership has made a charge, testified, assisted, or participated in any manner in an investigation, a proceeding, or litigation under this act.

(e) Except as provided in paragraph (f), it is unlawful for an employer, labor organization, or employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to:

1. Employment by such employer;

2. Membership in such labor organization or any classification or referral for employment by such labor organization; or

3. Any classification or referral for employment by such employment agency,

which notice or advertisement indicates any preference, limitation, specification, or discrimination based on age.

(f) It is not unlawful for an employer, employment agency, or labor organization to:

1. Take any action otherwise prohibited under paragraph (a), paragraph (b), paragraph (c), or paragraph (e), based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business.

2. Observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this act.

3. Discharge or otherwise discipline an individual for good cause.

(4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the state who is within the Career Service System established by chapter 110 and who is aggrieved by a violation of this act may appeal to the Public Employees Relations Commission under the conditions and following the procedures prescribed in part II of chapter 447. Any person other than an employee who is within the Career Service System established by chapter 110, or any person employed by the Public Employees Relations Commission, who is aggrieved by a violation of this act may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act.

(5) NOTICE TO BE POSTED.—Each employer, employment agency, and labor organization shall post and keep posted in conspicuous places upon its premises notices required by the United States Department of Labor and the Equal Employment Opportunity Commission.

History.—ss. 6, 7, 8, 10, 11, ch. 76-208; s. 1, ch. 77-174; s. 7, ch. 79-7; s. 31, ch. 79-190; s. 4, ch. 81-169; s. 75, ch. 86-163; s. 679, ch. 95-147; s. 5, ch. 2011-213.

112.0455 Drug-Free Workplace Act.—

(1) SHORT TITLE.—This section shall be known and may be cited as the "Drug-Free Workplace Act."

(2) PURPOSE.—This section is intended to:

(a) Promote the goal of drug-free workplaces within government through fair and reasonable drug-testing methods for the protection of public employees and employers.

(b) Encourage employers to provide employees who have drug use problems with an opportunity to participate in an employee assistance program or an alcohol and drug rehabilitation program.

(c) Provide for confidentiality of testing results.

(3) FINDINGS.—The Legislature finds that:

(a) Drug use has serious adverse effects upon a significant portion of the workforce, resulting in billions of dollars of lost productivity each year and posing a threat to the workplace and to public safety and security.

(b) Maintaining a healthy and productive workforce, safe working conditions free from the effects of drugs, and quality products and services is important to employers, employees, and the general public in this state. The Legislature further finds that drug use creates a variety of workplace problems, including increased injury on the job, increased absenteeism, increased financial burden on health and benefit programs, increased workplace theft, decreased employee morale, decreased productivity, and a decline in the quality of products and services.

(c) Certain drug-testing standards are necessary to protect persons participating in workplace drug-testing programs.

(d) In balancing the interests of employers, employees, and the welfare of the general public, the establishment of standards to assure fair and accurate testing for drugs in the workplace is in the best interests of all.

(4) NO LEGAL DUTY TO TEST.—All drug testing conducted by employers shall be in conformity with the standards established in this section and all applicable rules promulgated pursuant to this section. However, employers shall not have a legal duty under this section to request an employee or job applicant to undergo drug testing. No testing of employees shall take effect until local drug abuse assistance programs have been identified.

(5) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(a) "Drug" means alcohol, including distilled spirits, wine, malt beverages, and intoxicating liquors; amphetamines; cannabinoids; cocaine; phencyclidine (PCP); hallucinogens; methaqualone; opiates; barbiturates; benzodiazepines; synthetic narcotics; designer drugs; or a metabolite of any of the substances listed herein.

(b) "Drug test" or "test" means any chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of a drug or its metabolites.

(c) "Initial drug test" means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens. All initial tests must use an immunoassay procedure or an equivalent, or must use a more accurate scientifically accepted method approved by the Agency for Health Care Administration as more accurate technology becomes available in a cost-effective form.

(d) "Confirmation test," "confirmed test," or "confirmed drug test" means a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen. The confirmation test must be different in scientific principle from that of the initial test procedure. This confirmation method must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.

(e) "Chain of custody" refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing for accountability at each stage in handling, testing, storing specimens, and reporting of test results.

(f) "Job applicant" means a person who has applied for a position with an employer and has been offered employment conditioned upon successfully passing a drug test.

(g) "Employee" means a person who works for salary, wages, or other remuneration for an employer.

(h) "Employer" means an agency within state government that employs individuals for salary, wages, or other remuneration.

(i) "Prescription or nonprescription medication" means a drug or medication obtained pursuant to a prescription as defined by s. 893.02 or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

(j) "Random testing" means a drug test conducted on employees who are selected through the use of a computer-generated random sample of an employer's employees.

(k) "Reasonable suspicion drug testing" means drug testing based on a belief that an employee is using or has used drugs in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Reasonable suspicion drug testing may not be required except upon the recommendation of a supervisor who is at least one level of supervision higher than the immediate supervisor of the employee in question. Among other things, such facts and inferences may be based upon:

1. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug.
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
3. A report of drug use, provided by a reliable and credible source, which has been independently corroborated.
4. Evidence that an individual has tampered with a drug test during employment with the current employer.
5. Information that an employee has caused, or contributed to, an accident while at work.
6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.

(l) "Specimen" means a tissue, hair, or product of the human body capable of revealing the presence of drugs or their metabolites.

(m) "Employee assistance program" means an established program for employee assessment, counseling, and possible referral to an alcohol and drug rehabilitation program.

(n) "Special risk" means employees who are required as a condition of employment to be certified under chapter 633 or chapter 943.

(6) NOTICE TO EMPLOYEES.—

(a) Employers with no drug-testing program shall ensure that at least 60 days elapse between a general one-time notice to all employees that a drug-testing program is being implemented and the beginning of actual drug testing. Employers with drug-testing programs in place prior to the effective date of this section are not required to provide a 60-day notice period.

(b) Prior to testing, all employees and job applicants for employment shall be given a written policy statement from the employer which contains:

1. A general statement of the employer's policy on employee drug use, which shall identify:

a. The types of testing an employee or job applicant may be required to submit to, including reasonable suspicion or other basis; and

b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. A statement advising the employee or job applicant of the existence of this section.
3. A general statement concerning confidentiality.
4. Procedures for employees and job applicants to confidentially report the use of prescription or nonprescription medications both before and after being tested. Additionally, employees and job applicants shall receive notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications shall be developed by the Agency for Health Care Administration.
5. The consequences of refusing to submit to a drug test.
6. Names, addresses, and telephone numbers of employee assistance programs and local alcohol and drug rehabilitation programs.
7. A statement that an employee or job applicant who receives a positive confirmed drug test result may contest or explain the result to the employer within 5 working days after written notification of the positive test result. If an employee or job applicant's explanation or challenge is unsatisfactory to the employer, the person may contest the drug test result as provided by subsections (14) and (15).

8. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil actions brought pursuant to this section.

9. A list of all drugs for which the employer will test, described by brand names or common names, as applicable, as well as by chemical names.

10. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission.

11. A statement notifying employees and job applicants of their right to consult the testing laboratory for technical information regarding prescription and nonprescription medication.

(c) An employer shall include notice of drug testing on vacancy announcements for those positions where drug testing is required. A notice of the employer's drug-testing policy shall also be posted in an appropriate and conspicuous location on the employer's premises, and copies of the policy shall be made available for inspection by the general public during regular business hours in the employer's personnel office or other suitable locations.

(7) TYPES OF TESTING.—Drug testing must be conducted within each agency's appropriation. An employer may conduct, but is not required to conduct, the following types of drug tests:

(a) *Job applicant testing.*—An employer may require job applicants to submit to a drug test and may use a refusal to submit to a drug test or a positive confirmed drug test as a basis for refusal to hire the job applicant.

(b) *Reasonable suspicion.*—An employer may require an employee to submit to reasonable suspicion drug testing.

(c) *Random testing.*—An employer may conduct random testing once every 3 months. The random sample of employees chosen for testing must be computer-generated by an independent third party. A random sample may not constitute more than 10 percent of the total employee population.

(d) *Routine fitness for duty.*—An employer may require an employee to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.

(e) *Followup testing.*—If the employee in the course of employment enters an employee assistance program for drug-related problems, or an alcohol and drug rehabilitation program, the employer may require the employee to submit to a drug test as a followup to such program, and on a quarterly, semiannual, or annual basis for up to 2 years thereafter.

(8) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen collection and testing for drugs under this section shall be performed in accordance with the following procedures:

(a) A sample shall be collected with due regard to the privacy of the individual providing the sample, and in a manner reasonably calculated to prevent substitution or contamination of the sample.

(b) Specimen collection shall be documented, and the documentation procedures shall include:

1. Labeling of specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results.

2. A form for the employee or job applicant to provide any information he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication, or other relevant medical information. Such form shall provide notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. The providing of information does not preclude the administration of the drug test, but shall be taken into account in interpreting any positive confirmed results.

(c) Specimen collection, storage, and transportation to the testing site shall be performed in a manner that will reasonably preclude specimen contamination or adulteration.

(d) Each initial and confirmation test conducted under this section, not including the taking or collecting of a specimen to be tested, shall be conducted by a licensed laboratory as described in subsection (12).

(e) A specimen for a drug test may be taken or collected by any of the following persons:

1. A physician, a physician's assistant, a registered professional nurse, a licensed practical nurse, a nurse practitioner, or a certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment.

2. A qualified person employed by a licensed laboratory.

(f) A person who collects or takes a specimen for a drug test conducted pursuant to this section shall collect an amount sufficient for two drug tests as determined by the Agency for Health Care Administration.

(g) Any drug test conducted or requested by an employer may occur before, during, or immediately after the regular work period of the employee, and shall be deemed to be performed during work time for the purposes of determining compensation and benefits for the employee.

(h) Every specimen that produces a positive confirmed result shall be preserved by the licensed laboratory that conducts the confirmation test for a period of at least 210 days from the time the results of the positive confirmation test are mailed or otherwise delivered to the employer. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 180-day period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee or job applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, chosen by the employee or job applicant. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory that performed the test for the employer is responsible for the transfer of the portion of the specimen to be retested, and for the integrity of the chain of custody during such transfer.

(i) Within 5 working days after receipt of a positive confirmed test result from the testing laboratory, an employer shall inform an employee or job applicant in writing of such positive test result, the consequences of such results, and the options available to the employee or job applicant.

(j) The employer shall provide to the employee or job applicant, upon request, a copy of the test results.

(k) Within 5 working days after receiving notice of a positive confirmed test result, the employee or job applicant may submit information to an employer explaining or contesting the test results, and why the results do not constitute a violation of the employer's policy.

(l) If an employee or job applicant's explanation or challenge of the positive test results is unsatisfactory to the employer, a written explanation as to why the employee or job applicant's explanation is unsatisfactory, along with the report of positive results, shall be provided by the employer to the employee or job applicant. All such documentation shall be kept confidential and exempt from the provisions of s. 119.07(1) by the employer pursuant to subsection (11) and shall be retained by the employer for at least 1 year.

(m) An employer may not discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation of an employee or job applicant on the sole basis of a positive test result that has not been verified by a confirmation test.

(n) Upon successful completion of an employee assistance program or an alcohol and drug rehabilitation program, the employee shall be reinstated to the same or equivalent position that was held prior to such rehabilitation.

(o) An employer may not discharge, discipline, or discriminate against an employee, or refuse to hire a job applicant, on the basis of any prior medical history revealed to the employer pursuant to this section.

(p) An employer who performs drug testing or specimen collection shall use chain-of-custody procedures as established by the Agency for Health Care Administration to ensure proper recordkeeping, handling, labeling, and identification of all specimens to be tested.

(q) An employer shall pay the cost of all drug tests, initial and confirmation, which the employer requires of employees.

(r) An employee or job applicant shall pay the costs of any additional drug tests not required by the employer.

(s) An employer may not discharge, discipline, or discriminate against an employee solely upon voluntarily seeking treatment, while under the employ of the employer, for a drug-related problem if the employee has not previously tested positive for drug use, entered an employee assistance program for drug-related problems, or entered an alcohol and drug rehabilitation program. However, special risk employees may be subject to discharge or disciplinary action when the presence of illicit drugs, pursuant to s. 893.13, is confirmed.

(t) If testing is conducted based on reasonable suspicion, each employer shall promptly detail in writing the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant the testing. A copy of this documentation shall be given to the employee upon request and the original documentation shall be kept

confidential and exempt from the provisions of s. 119.07(1) by the employer pursuant to subsection (11) and retained by the employer for at least 1 year.

(u) If an employee is unable to participate in outpatient rehabilitation, the employee may be placed on leave status while participating in an employee assistance program or an alcohol and drug rehabilitation program. If placed on leave-without-pay status, the employee shall be permitted to use any accumulated leave credits prior to being placed on leave without pay. Upon successful completion of an employee assistance program or an alcohol and drug rehabilitation program, the employee shall be reinstated to the same or equivalent position that was held prior to such rehabilitation.

(9) CONFIRMATION TESTING.—

(a) If an initial drug test is negative, the employer may in its sole discretion and at the employer's expense seek a confirmation test.

(b) Only licensed laboratories as described in subsection (12) shall conduct confirmation drug tests.

(c) All positive initial tests shall be confirmed using gas chromatography/mass spectrometry (GC/MS) or an equivalent or more accurate scientifically accepted method approved by the Agency for Health Care Administration as such technology becomes available in a cost-effective form.

(10) EMPLOYER PROTECTION.—

(a) No employee or job applicant whose drug test result is confirmed as positive in accordance with the provisions of this section shall, by virtue of the result alone, be defined as a person with a "handicap" as cited in the 1973 Rehabilitation Act.

(b) An employer who discharges or disciplines an employee or refuses to hire a job applicant in compliance with this section shall be considered to have discharged, disciplined, or refused to hire for cause.

(c) No physician-patient relationship is created between an employee or job applicant and an employer or any person performing or evaluating a drug test, solely by the establishment, implementation, or administration of a drug-testing program.

(d) Nothing in this section shall be construed to prevent an employer from establishing reasonable work rules related to employee possession, use, sale, or solicitation of drugs, including convictions for drug-related offenses, and taking action based upon a violation of any of those rules.

(e) Nothing in this section shall be construed to operate retroactively.

(f) If an employee or job applicant refuses to submit to a drug test, the employer shall not be barred from discharging or disciplining the employee, or from refusing to hire the job applicant. However, nothing in this paragraph shall abrogate the rights and remedies of the employee or job applicant as otherwise provided in this section.

(g) An employer who refuses to hire a job applicant based on a positive confirmed drug test result shall not be required to hold the employment position vacant while the job applicant pursues administrative action. However, should the job applicant prevail in the actions, the employer shall provide him or her the opportunity of employment in the next available comparable position.

(h) An employer may discharge or discipline an employee following a first-time positive confirmed drug test result. If the employer does not discharge the employee, the employer may refer the employee to an employee assistance program or an alcohol and drug rehabilitation program in which the employee may participate at the expense of the employee or pursuant to a health insurance plan.

1. If an employer refers an employee to an employee assistance program or an alcohol and drug rehabilitation program, the employer must determine whether the employee is able to safely and effectively perform the job duties assigned to the employee while the employee participates in the employee assistance program or the alcohol and drug rehabilitation program.

2. An employee whose assigned duties require the employee to carry a firearm, work closely with an employee who carries a firearm, perform life-threatening procedures, work with heavy or dangerous machinery, work as a safety inspector, work with children, work with detainees in the correctional system, work with confidential information or documents pertaining to criminal investigations, work with controlled substances, hold a position subject to s. 110.1127, or hold a position in which a momentary lapse in attention could result in injury or death to

another person, is deemed unable to safely and effectively perform the job duties assigned to the employee while the employee participates in the employee assistance program or the alcohol and drug rehabilitation program.

3. If an employer refers an employee to an employee assistance program or an alcohol and drug rehabilitation program and the employer determines that the employee is unable, or the employee is deemed unable, to safely and effectively perform the job duties assigned to the employee before he or she completes the employee assistance program or the alcohol and drug rehabilitation program, the employer shall place the employee in a job assignment that the employer determines the employee can safely and effectively perform while participating in the employee assistance program or the alcohol and drug rehabilitation program.

4. If a job assignment in which the employee may safely and effectively perform is unavailable, the employer shall place the employee on leave status while the employee is participating in an employee assistance program or an alcohol and drug rehabilitation program. If placed on leave status without pay, the employee may use accumulated leave credits before being placed on leave without pay.

(i) This section does not prohibit an employer from conducting medical screening or other tests required by any statute, rule, or regulation for the purpose of monitoring exposure of employees to toxic or other unhealthy substances in the workplace or in the performance of job responsibilities. Such screening or tests shall be limited to the specific substances expressly identified in the applicable statute, rule, or regulation, unless prior written consent of the employee is obtained for other tests.

(11) CONFIDENTIALITY.—

(a) Except as otherwise provided in this subsection, all information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of a drug-testing program are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with this section.

(b) Employers, laboratories, employee assistance programs, drug and alcohol rehabilitation programs, and their agents may not release any information concerning drug test results obtained pursuant to this section without a written consent form signed voluntarily by the person tested, except where such release is compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal taken under this section, or where deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. The consent form must contain, at a minimum:

1. The name of the person who is authorized to obtain the information.
2. The purpose of the disclosure.
3. The precise information to be disclosed.
4. The duration of the consent.
5. The signature of the person authorizing release of the information.

(c) Information on drug test results shall not be released or used in any criminal proceeding against the employee or job applicant. Information released contrary to this section shall be inadmissible as evidence in any such criminal proceeding.

(d) Nothing herein shall be construed to prohibit certifying bodies of special risk employees from receiving information on positive confirmed drug test results for the purpose of reviewing certification.

(e) Nothing herein shall be construed to prohibit the employer, agent of the employer, or laboratory conducting a drug test from having access to employee drug test information when consulting with legal counsel in connection with actions brought under or related to this section or where the information is relevant to its defense in a civil or administrative matter.

(12) DRUG-TESTING STANDARDS; LABORATORIES.—

(a) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to this section and part II of chapter 408 and to entities licensed by or applying for such licensure from the Agency for Health Care Administration pursuant to this section. A license issued by the agency is required in order to operate a laboratory.

(b) A laboratory may analyze initial or confirmation drug specimens only if:

1. The laboratory is licensed and approved by the Agency for Health Care Administration using criteria established by the United States Department of Health and Human Services as general guidelines for modeling the state drug testing program and in accordance with part II of chapter 408. Each applicant for licensure and licensee must comply with all requirements of part II of chapter 408.

2. The laboratory has written procedures to ensure chain of custody.

3. The laboratory follows proper quality control procedures, including, but not limited to:

a. The use of internal quality controls including the use of samples of known concentrations which are used to check the performance and calibration of testing equipment, and periodic use of blind samples for overall accuracy.

b. An internal review and certification process for drug test results, conducted by a person qualified to perform that function in the testing laboratory.

c. Security measures implemented by the testing laboratory to preclude adulteration of specimens and drug test results.

d. Other necessary and proper actions taken to ensure reliable and accurate drug test results.

(c) A laboratory shall disclose to the employer a written test result report within 7 working days after receipt of the sample. All laboratory reports of a drug test result shall, at a minimum, state:

1. The name and address of the laboratory which performed the test and the positive identification of the person tested.

2. Positive results on confirmation tests only, or negative results, as applicable.

3. A list of the drugs for which the drug analyses were conducted.

4. The type of tests conducted for both initial and confirmation tests and the minimum cutoff levels of the tests.

5. Any correlation between medication reported by the employee or job applicant pursuant to subparagraph (8)(b)2. and a positive confirmed drug test result.

No report shall disclose the presence or absence of any drug other than a specific drug and its metabolites listed pursuant to this section.

(d) The laboratory shall submit to the Agency for Health Care Administration a monthly report with statistical information regarding the testing of employees and job applicants. The reports shall include information on the methods of analyses conducted, the drugs tested for, the number of positive and negative results for both initial and confirmation tests, and any other information deemed appropriate by the Agency for Health Care Administration. No monthly report shall identify specific employees or job applicants.

(e) Laboratories shall provide technical assistance to the employer, employee, or job applicant for the purpose of interpreting any positive confirmed test results which could have been caused by prescription or nonprescription medication taken by the employee or job applicant.

(13) RULES.—

(a) The Agency for Health Care Administration may adopt additional rules to support this law and part II of chapter 408, using criteria established by the United States Department of Health and Human Services as general guidelines for modeling drug-free workplace laboratories, concerning, but not limited to:

1. Standards for drug-testing laboratory licensing and denial, suspension, and revocation of a license.

2. Urine, hair, blood, and other body specimens and minimum specimen amounts which are appropriate for drug testing, not inconsistent with other provisions established by law.

3. Methods of analysis and procedures to ensure reliable drug-testing results, including standards for initial tests and confirmation tests, not inconsistent with other provisions established by law.

4. Minimum cutoff detection levels for drugs or their metabolites for the purposes of determining a positive test result, not inconsistent with other provisions established by law.

5. Chain-of-custody procedures to ensure proper identification, labeling, and handling of specimens being tested, not inconsistent with other provisions established by law.

6. Retention, storage, and transportation procedures to ensure reliable results on confirmation tests and retests.

7. A list of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test.

(b) The following standards and procedures are established related to hair testing:

1. Hair cutoff levels for initial drug-screening tests.—The following initial cutoff levels must be used when screening hair specimens to determine whether they are negative for these drugs or their metabolites:

a. Marijuana: 10 pg/10 mg of hair;

b. Cocaine: 5 ng/10 mg of hair; and

c. Opiate/synthetic narcotics and metabolites: 5 ng/10 mg of hair. For the purpose of this section, opiate and metabolites include the following:

(I) Codeine;

(II) Heroin, monoacetylmorphine (heroin metabolites);

(III) Morphine;

d. Phencyclidine: 3 ng/10 mg of hair; and

e. Amphetamines: 5 ng/10 mg of hair. For the purpose of this section, amphetamines include the following:

(I) Amphetamines;

(II) Methamphetamine;

2. Hair cutoff levels for drug confirmation testing.—

a. All specimens identified as positive on the initial test must be confirmed using gas chromatography/mass spectrometry (GC/MS), mass spectrometry/mass spectrometry (MS/MS) at the following cutoff levels for these drugs on their metabolites. All confirmations must be by quantitative analysis.

(I) Marijuana metabolites: 1 pg/10 mg of hair (Delta-9-tetrahydrocannabinol-0-carboxylic acid).

(II) Cocaine: must be at or above 5 ng/10 mg of hair. Cocaine metabolites if present will be recorded at the following minimum levels:

(A) Benzoylecgonine at 1 ng/10 mg of hair; and

(B) Cocaethlyene at 1 ng/10 mg of hair.

(III) Opiate/synthetic narcotics and metabolites: 5 ng/10 mg of hair; opiate and metabolites include the following:

(A) Codeine;

(B) 6-Monoacetylmorphine (heroin metabolite); and

(C) Morphine.

(IV) Phencyclidine: 3 ng/10 mg of hair.

(V) Amphetamines: 5 ng/10 mg of hair. For the purpose of this section, amphetamines include the following:

(A) Amphetamines; and

(B) Methamphetamines.

b. All hair specimens undergoing confirmation must be decontaminated using a wash procedure which has been published in the peer-reviewed literature which, as a minimum, has an initial 15-minute organic solvent wash followed by multiple (minimum of three) 30-minute aqueous washes.

c. After hair is washed, the drug entrapped in the hair is released either by digestion (chemical or enzymatic) or by multiple solvent extractions. The resulting digest or pooled solvent extracts are then screened and confirmed by approved methods.

d. All confirmation analysis methods must eliminate the melanin fraction of the hair before analysis. If a nondigestion method is used, the laboratory must present published data in the peer-reviewed literature from a large population study which indicates that the method of extraction does not possess a statistically significant hair-color bias.

e. Additional hair samples may be collected to reconfirm the initial report. The recollected sample shall be retested as specified; however, the confirmation analysis must be performed even if the screening test is negative. A second positive report must be made if the drug concentration in the digest by confirmation methods exceeds the limit of quantitation of the testing laboratory's method. A second test must be offered to anyone disputing a positive hair test result.

3. Hair specimen collection procedures.—

a. Designation of collection site.—Each drug-testing program shall have one or more designated collection sites which have all necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of hair specimens to a licensed drug-testing facility.

b. Security.—While security is important with any collection, in the case of hair, only the temporary storage area in the designated collection site needs to be secure.

c. Chain of custody.—Chain-of-custody standardized forms shall be properly executed by authorized collection site personnel upon receipt of specimens. Handling and transportation of hair specimens from one authorized individual or place to another shall always be accomplished through chain-of-custody procedures. Every effort shall be made to minimize the number of persons handling specimens.

d. Access to authorized personnel only.—The hair collection site need be off limits to unauthorized personnel only during the actual collection of specimens.

e. Privacy.—Procedures for collecting hair should be performed on one individual at a time to prevent substitutions or interference with the collection of reliable samples. Procedures must ensure that the hair collection does not infringe on the individual's privacy.

f. Integrity and identity of specimen.—Precautions must be taken to ensure that the root end of a hair specimen is indicated for the laboratory which performs the testing. The maximum length of hair that shall be tested is 3.9 cm distal from the head, which on average represents a 3-month time window. The following minimum precautions must be taken when collecting a hair specimen to ensure that specimens are obtained and correctly identified:

(I) When an individual arrives at the collection site, the collection site personnel shall request the individual to present photo identification. If the individual does not have proper photo identification, the collection site personnel shall contact the supervisor of the individual, the coordinator of the drug testing program, or any other employer official who can positively identify the individual. If the individual's identity cannot be established, the collection site personnel shall not proceed with the collection.

(II) If the individual fails to arrive at the assigned time, the collection site personnel shall contact the appropriate authority to obtain guidance on the action to be taken.

(III) The collection site personnel shall note any unusual behavior or appearance on the chain-of-custody form.

(IV) Hair shall be cut as close to the scalp or body, excluding the pubic area, as possible. Upon taking the specimen from the individual, the collection site personnel shall determine that it contains approximately ½-inch of hair when fanned out on a ruler (about 40 mg of hair).

(V) Both the individual being tested and the collection site personnel shall keep the specimen in view at all times prior to the specimen container being sealed with a tamper-resistant seal and labeled with the individual's specimen number and other required information.

(VI) The collection site personnel shall label the container which contains the hair with the date, the individual's specimen number, and any other identifying information provided or required by the drug-testing program.

(VII) The individual shall initial the container for the purpose of certifying that it is the specimen collected from the individual.

(VIII) The collection site personnel shall indicate on the chain-of-custody form all information identifying the specimen. The collection site personnel shall sign the chain-of-custody form next to the identifying information or the chain of custody on the specimen container.

(IX) The individual must be asked to read and sign a statement certifying that the specimen identified as having been collected from the individual is in fact that specimen the individual provided.

(X) The collection site personnel shall complete the chain-of-custody form.

g. Collection control.—To the maximum extent possible, collection site personnel shall keep the individual's specimen container within sight both before and after collection. After the specimen is collected, it must be properly sealed and labeled. An approved chain-of-custody form must be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. The date and purpose must be documented on an approved chain-of-custody form each time a specimen is handled or transferred, and every individual in the chain must be identified. Every effort must be made to minimize the number of persons handling specimens.

h. Transportation to the testing facility.—Collection site personnel shall arrange to transport the collected specimens to the drug-testing facility. The specimens shall be placed in containers which shall be securely sealed to eliminate the possibility of undetected tampering. The collection site personnel shall ensure that the chain-of-custody documentation is sealed separately from the specimen and placed inside the container sealed for transfer to the drug-testing facility.

4. Quality assurance and quality control.—

a. Quality assurance.—Testing facilities shall have a quality assurance program which encompasses all aspects of the testing process, including, but not limited to, specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, and validation of analytical procedures. Quality assurance procedures shall be designed, implemented, and reviewed to monitor the conduct of each step of the process of testing for drugs.

b. Quality control.—

(I) Each analytical run of specimens to be screened shall include:

(A) Hair specimens certified to contain no drug;

(B) Hair specimens fortified with known standards; and

(C) Positive controls with the drug or metabolite at or near the threshold (cutoff).

(II) In addition, with each batch of samples, a sufficient number of standards shall be included to ensure and document the linearity of the assay method over time in the concentration area of the cutoff. After acceptable values are obtained for the known standards, those values must be used to calculate sample data. Implementation of procedures to ensure that carryover does not contaminate the testing of an individual's specimen must be documented. A minimum of 5 percent of all test samples must be quality control specimens. The testing facility's quality control samples, prepared from fortified hair samples of determined concentration, must be included in the run and must appear as normal samples to drug-screen testing facility analysis. One percent of each run, with a minimum of at least one sample, must be the testing facility's own quality control samples.

5.a. Proficiency testing.—

(I) Each hair drug-testing facility shall enroll and demonstrate satisfactory performance in a proficiency-testing program established by an independent group.

(II) The drug-testing facility shall maintain records which document the handling, processing, and examination of all proficiency-testing samples for a minimum of 2 years from the date of testing.

(III) The drug-testing facility shall ensure that proficiency-testing samples are analyzed at least three times each year using the same techniques as those employed for unknown specimens.

(IV) The proficiency-testing samples must be included with the routine sample run and tested with the same frequency as unknown samples by the individuals responsible for testing unknown specimens.

(V) The drug-testing facility may not engage in discussions or communications concerning proficiency-testing results with other drug-testing facilities, nor may they send proficiency-testing samples or portions of the samples to another drug-testing facility for analysis.

b. Satisfactory performance.—

(I) The drug-testing facility shall maintain an overall testing-event score equivalent to passing proficiency scores for other drug-testing matrices.

(II) Failure to participate in a proficiency-testing event shall result in a score of 0 percent for that testing event.

c. Unsuccessful performance.—Failure to achieve satisfactory performance in two consecutive testing events, or two out of three consecutive testing events, is determined to be unsuccessful performance.

(c) The Department of Management Services may adopt rules for all executive branch agencies implementing this section.

(d) The State Courts Administrator may adopt rules for the state courts system implementing this section.

(e) The Justice Administrative Commission may adopt rules on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel, and the Judicial Qualifications Commission.

(f) The President of the Senate and the Speaker of the House of Representatives may adopt rules, policies, or procedures for the employees and members of the legislative branch implementing this section.

This section shall not be construed to eliminate the bargainable rights as provided in the collective bargaining process where applicable.

(14) DISCIPLINE REMEDIES.—

(a) An executive branch employee who is disciplined or who is a job applicant for another position and is not hired pursuant to this section, may file an appeal with the Public Employees Relations Commission. Any appeal must be filed within 30 calendar days of receipt by the employee or job applicant of notice of discipline or refusal to hire. The notice shall inform the employee or job applicant of the right to file an appeal, or if available, the right to file a collective bargaining grievance pursuant to s. 447.401. Such appeals shall be resolved pursuant to the procedures established in ss. 447.207(1)-(4), 447.208(2), and 447.503(4) and (5). A hearing on the appeal shall be conducted within 30 days of the filing of the appeal, unless an extension is requested by the employee or job applicant and granted by the commission or an arbitrator.

(b) The commission shall promulgate rules concerning the receipt, processing, and resolution of appeals filed pursuant to this section.

(c) Appeals to the commission shall be the exclusive administrative remedy for any employee who is disciplined or any job applicant who is not hired pursuant to this section, notwithstanding the provisions of chapter 120. However, nothing in this subsection shall affect the right of an employee or job applicant to file a collective bargaining grievance pursuant to s. 447.401 provided that an employee or job applicant may not file both an appeal and a grievance.

(d) An employee or a job applicant who has been disciplined or who has not been hired pursuant to this section must exhaust either the administrative appeal process or collective bargaining grievance-arbitration process.

(e) Upon resolving an appeal filed pursuant to paragraph (c), and finding a violation of this section, the commission may order the following relief:

1. Rescind the disciplinary action, expunge related records from the personnel file of the employee or job applicant and reinstate the employee.
2. Order compliance with paragraph (10)(g).
3. Award back pay and benefits.
4. Award the prevailing employee or job applicant the necessary costs of the appeal, reasonable attorney's fees, and expert witness fees.

(15) NONDISCIPLINE REMEDIES.—

(a) Any person alleging a violation of the provisions of this section, that is not remediable by the commission or an arbitrator pursuant to subsection (14), must institute a civil action for injunctive relief or damages, or both, in a court of competent jurisdiction within 180 days of the alleged violation, or be barred from obtaining the following relief. Relief is limited to:

1. An order restraining the continued violation of this section.
2. An award of the costs of litigation, expert witness fees, reasonable attorney's fees, and noneconomic damages provided that damages shall be limited to the recovery of damages directly resulting from injury or loss caused by each violation of this section.

(b) Any employer who complies with the provisions of this section shall be without liability from all civil actions arising from any drug testing program or procedure performed in compliance with this section.

(c) Pursuant to any claim alleging a violation of this section, including a claim under this section where it is alleged that an employer's action with respect to a person was based on an incorrect test result, there shall be a rebuttable presumption that the test was valid if the employer complied with the provisions of this section.

(d) No cause of action shall arise in favor of any person based upon the failure of an employer to establish a program or policy for drug testing.

(16) FEDERAL COMPLIANCE.—The drug-testing procedures provided in this section do not apply where the specific work performed requires employees or job applicants to be subject to drug testing pursuant to:

(a) Federal regulations that specifically preempt state and local regulation of drug testing with respect to such employees and job applicants;

(b) Federal regulations or requirements enacted or implemented in connection with the operation of federally regulated facilities;

(c) Federal contracts where the drug testing is conducted for safety, or protection of sensitive or proprietary data or national security; or

(d) State agency rules that adopt federal regulations applicable to the interstate component of a federally regulated activity.

(17) LICENSE FEE.—Fees from licensure of drug-testing laboratories shall be sufficient to carry out the responsibilities of the Agency for Health Care Administration for the regulation of drug-testing laboratories. In accordance with s. 408.805, applicants and licensees shall pay a fee for each license application submitted under this part, part II of chapter 408, and applicable rules. The fee shall be not less than $16,000 or more than $20,000 per biennium and shall be established by rule.

History.—s. 1, ch. 89-173; s. 1, ch. 90-238; s. 25, ch. 90-360; s. 1, ch. 91-201; s. 6, ch. 91-279; s. 4, ch. 91-429; s. 40, ch. 92-279; s. 55, ch. 92-326; s. 7, ch. 93-129; s. 2, ch. 95-119; s. 680, ch. 95-147; s. 1, ch. 96-289; s. 32, ch. 96-406; s. 7, ch. 98-136; ss. 5, 71, ch. 98-171; s. 53, ch. 2000-349; s. 25, ch. 2001-53; s. 2, ch. 2001-67; s. 148, ch. 2001-277; s. 37, ch. 2004-267; s. 11, ch. 2006-1; s. 7, ch. 2007-217; s. 1, ch. 2007-230; s. 1, ch. 2012-8; s. 7, ch. 2016-10; s. 23, ch. 2016-145.

112.046 Political party committee membership allowed.—Notwithstanding any other provision of law, an officer or employee of the state or any political subdivision may also serve as a member of the state executive committee or county executive committee of a political party. No person shall be required to resign from public office or employment, nor shall any person be fired or removed from such public office or employment, because of membership on such a committee prior to June 25, 1980.

History.—s. 3, ch. 80-207; s. 681, ch. 95-147.

112.048 Voluntary retirement with half pay authorized for elective officers of cities or towns; appropriation.—

(1) The intent of the Legislature is to authorize and direct each city and town to provide a system of retirement for elected officials, but it is further the intent that each city or town may determine whether the system will be contributory or noncontributory.

(2)(a) From and after June 3, 1939, whenever any elective officer of any city or town of this state has held any elective office of such city or town for a period of 20 years or more consecutively, or for a period of 20 years or more consecutively, except for one period not exceeding 6 months, such elective officer may voluntarily resign or retire from such elective office with the right to be paid on the officer's own requisition by such city or town during the remainder of his or her natural life a sum equal to one-half of the full amount of the annual or monthly salary that such city or town was authorized by law to pay said elective officer at the time of resignation or retirement; and such city and town shall appropriate and provide in its annual budget sufficient moneys to meet the requirements of this section when no other plan is available for elected local officials. In cases in which an elective officer during any term of office entered or enters and served or serves in the Armed Forces of the United States during any period during which the United States was or shall be engaged in war and thereafter was or shall be appointed or again elected to the same elective office prior to discharge from such service in the Armed Forces, such time of service in the Armed Forces shall not be construed to be a break in consecutive service and shall be counted in determining the years of consecutive service of such elective officer.

(b) The provisions of this subsection shall not operate to preclude any elected officer from retiring under, and receiving benefits pursuant to, the provisions of this section as it existed prior to October 1, 1973, if such officer had, prior to that date, completed the required 20 years of service or been elected to a term upon the expiration of which he or she completes the required 20 years of service. However, if on October 1, 1973, an elected officer had completed at least 10 of the required 20 years of service, the city or town may elect to provide an annual or monthly retirement salary as provided in this subsection.

(3) Each city or town may by ordinance establish a contributory retirement system for those officials defined in subsection (2). The rules for participation, the amount of the official's contributions, and the method of appropriation and payment may be determined by ordinance of the city or town.

History.—s. 1, ch. 19247, 1939; CGL 1940 Supp. 2998(1); s. 1, ch. 57-805; s. 1, ch. 65-455; s. 1, ch. 72-280; s. 4, ch. 73-129; s. 1, ch. 74-231; s. 1, ch. 84-351; s. 682, ch. 95-147.

Note.—Former ss. 165.25, 121.20.

112.05 Retirement; cost-of-living adjustment; employment after retirement.—

(1)(a) Whenever any state official or state employee has attained the age of 70 years or more and has served the state as either an official or employee, or both, for as much as 20 consecutive years or more or for an aggregate time of 30 years or more, or whenever any state official or employee, irrespective of age, has served the state as either an official or employee, or both, for 30 consecutive years or more, or for as much as an aggregate of 35 years or more, such official or employee may retire from office as such official or employee with the right to be paid, and shall be paid monthly on his or her own requisition during the remainder of his or her natural life one-half the amount of the average monthly salary received during the last 10 years of such service; and sufficient money to meet the requirements of this section is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated. Provided, that military service in the Armed Forces of the United States shall be computed as a part of the time specified hereinabove as entitling a state official or employee to the benefits of this section. This section shall apply only to persons retired or persons who are on a state payroll June 30, 1953, and remain continuously on a state payroll until eligible to retire. This section shall not affect any state official or employee who has already retired under any retirement act, except that no Cabinet officer qualifying shall receive less than $4,500 per year.

(b)1. Any state official or state employee who, as of January 1, 1976, has served the state as either an official or employee, or both, for 29 consecutive years, irrespective of age, and who has a terminal or critical illness, which illness is certified by two physicians licensed in this state as terminal or critical, shall be eligible for early retirement. The benefits accruing to any such person under this section shall be reduced by five-twelfths of 1 percent for each complete month by which such retirement precedes the 30 years of service required under paragraph (a).

2. Any state official or employee eligible to retire pursuant to the provisions of this paragraph may retire from office as such official or employee with the right to be paid, and shall be paid monthly on his or her own requisition, during the remainder of his or her natural life, one-half the amount of the average monthly salary received during the last 10 years of service, less the actuarial reduction provided for in subparagraph 1.

(c) Upon the death of a retired state officer or employee receiving monthly benefits under this section, the monthly benefits shall be paid through the last day of the month of death and shall terminate on that date.

(2) An annual cost-of-living adjustment shall be made to the monthly benefit payable to retirees who are retired under this section pursuant to the provisions of s. 121.101.

(3) Any person who is retired under this section may be employed by an employer who does not participate in a state-administered retirement system and may receive compensation from such employment without limiting or restricting in any way the retirement benefits payable to such person.

(4)(a) Any person who is retired under this section may be reemployed by any private or public employer after retirement and receive retirement benefits and compensation from his or her employer without limitation, except that no person may receive both a salary from reemployment with any agency participating in the Florida Retirement System and retirement benefits under this chapter for a period of 12 months immediately subsequent to the date of retirement.

(b) Any person to whom the limitation in paragraph (a) applies who violates such reemployment limitation and is reemployed with any agency participating in the Florida Retirement System prior to completion of the 12-month limitation period shall give timely notice of this fact in writing to the employer and to the division; and the person's retirement benefits shall be suspended for the balance of the 12-month limitation period. Any person employed in violation of this subsection and any employing agency which knowingly employs or appoints such person without notifying the Department of Management Services to suspend retirement benefits shall be jointly and severally liable for reimbursement to the retirement trust fund of any benefits paid during the reemployment limitation period. To avoid liability, such employing agency shall have a written statement from the retiree that he or she is not retired from a state-administered retirement system. Any retirement benefits received by such person while reemployed during this limitation period shall be repaid to the retirement trust fund, and the retirement benefits shall remain suspended

until such repayment has been made. Any benefits suspended beyond the reemployment limitation period shall apply toward the repayment of benefits received in violation of the reemployment limitation.

(c) An employer, upon employment of any person who has been retired under a state-administered retirement program, shall pay retirement contributions in an amount equal to the unfunded actuarial accrued liability portion of the employer contribution which would be required for a regular member of the Florida Retirement System.

(d) The limitations of this subsection apply to reemployment in any capacity with an employer as defined in s. 121.021(10), irrespective of the category of funds from which the person is compensated.

History.—s. 1, ch. 12293, 1927; CGL 242; s. 1, ch. 17274, 1935; s. 1, ch. 20499, 1941; s. 1, ch. 22828, 1945; ss. 1, chs. 28147, 28148, 1953; s. 1, ch. 74-303; s. 1, ch. 76-212; s. 1, ch. 80-126; s. 2, ch. 80-130; s. 1, ch. 81-307; s. 31, ch. 83-217; s. 19, ch. 84-266; s. 1, ch. 90-274; s. 3, ch. 95-146; s. 683, ch. 95-147; s. 1, ch. 96-368; s. 12, ch. 99-255.

Note.—Former s. 121.001.

112.0501 Ratification of certain dual retirements.—

(1) Any state employee who was permitted by the Comptroller, as administrator of the retirement provisions of s. 112.05 and chapter 122, to retire under the provisions of both such statutes prior to April 23, 1969, when the Attorney General ruled that such dual retirements are prohibited by s. 122.10(3), as recodified by the Legislature in 1965, shall receive and enjoy the retirement benefits awarded upon retirement, the provisions of s. 122.10(3) to the contrary notwithstanding.

(2) The exceptions granted to state retirees coming under the provisions of subsection (1) shall not apply to any state employee retiring subsequent to November 1, 1970, and the administrator of the Florida Retirement System is hereby directed to establish such rules and procedures as may be necessary to prohibit such dual retirements for members of the Florida Retirement System or any retirement system consolidated therein pursuant to s. 121.011(2).

History.—s. 1, ch. 72-202; s. 684, ch. 95-147.

112.0515 Retirement or pension rights unaffected by consolidation or merger of governmental agencies.—It is hereby declared to be the policy of this state that in any consolidation or merger of governments or the transfer of functions between units of governments either at the state or local level or between state and local units, the rights of all public employees in any retirement or pension fund shall be fully protected. No consolidation or merger of governments or governmental services, either state or local, accomplished in this state shall diminish or impair the rights of any public employee in any retirement or pension fund or plan which existed at the date of such consolidation or merger and in which the employee was participating, nor shall such consolidation or merger result in any impairment or reduction in benefits or other pension rights accruing to such employee.

History.—s. 1, ch. 72-210.

112.061 Per diem and travel expenses of public officers, employees, and authorized persons.—

(1) LEGISLATIVE INTENT.—To prevent inequities, conflicts, inconsistencies, and lapses in the numerous laws regulating or attempting to regulate travel expenses of public officers, employees, and authorized persons in the state, it is the intent of the Legislature:

(a) To establish standard travel reimbursement rates, procedures, and limitations, with certain justifiable exceptions and exemptions, applicable to all public officers, employees, and authorized persons whose travel is authorized and paid by a public agency.

(b) To preserve the standardization established by this law:

1. The provisions of this section shall prevail over any conflicting provisions in a general law, present or future, to the extent of the conflict; but if any such general law contains a specific exemption from this section, including a specific reference to this section, such general law shall prevail, but only to the extent of the exemption.

2. The provisions of any special or local law, present or future, shall prevail over any conflicting provisions in this section, but only to the extent of the conflict.

(2) DEFINITIONS.—For the purposes of this section, the following words shall have the meanings indicated:

(a) Agency or public agency—Any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or any

other separate unit of government created pursuant to law.

(b) Agency head or head of the agency—The highest policymaking authority of a public agency, as herein defined.

(c) Officer or public officer—An individual who in the performance of his or her official duties is vested by law with sovereign powers of government and who is either elected by the people, or commissioned by the Governor and has jurisdiction extending throughout the state, or any person lawfully serving instead of either of the foregoing two classes of individuals as initial designee or successor.

(d) Employee or public employee—An individual, whether commissioned or not, other than an officer or authorized person as defined herein, who is filling a regular or full-time authorized position and is responsible to an agency head.

(e) Authorized person—

1. A person other than a public officer or employee as defined herein, whether elected or commissioned or not, who is authorized by an agency head to incur travel expenses in the performance of official duties.

2. A person who is called upon by an agency to contribute time and services as consultant or adviser.

3. A person who is a candidate for an executive or professional position.

(f) Traveler—A public officer, public employee, or authorized person, when performing authorized travel.

(g) Travel expense, traveling expenses, necessary expenses while traveling, actual expenses while traveling, or words of similar nature—The usual ordinary and incidental expenditures necessarily incurred by a traveler.

(h) Common carrier—Train, bus, commercial airline operating scheduled flights, or rental cars of an established rental car firm.

(i) Travel day—A period of 24 hours consisting of four quarters of 6 hours each.

(j) Travel period—A period of time between the time of departure and time of return.

(k) Class A travel—Continuous travel of 24 hours or more away from official headquarters.

(l) Class B travel—Continuous travel of less than 24 hours which involves overnight absence from official headquarters.

(m) Class C travel—Travel for short or day trips where the traveler is not away from his or her official headquarters overnight.

(n) Foreign travel—Travel outside the United States.

(3) AUTHORITY TO INCUR TRAVEL EXPENSES.—

(a) All travel must be authorized and approved by the head of the agency, or his or her designated representative, from whose funds the traveler is paid. The head of the agency shall not authorize or approve such a request unless it is accompanied by a signed statement by the traveler's supervisor stating that such travel is on the official business of the state and also stating the purpose of such travel.

(b) Travel expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed by this section.

(c) Travel by public officers or employees serving temporarily in behalf of another agency or partly in behalf of more than one agency at the same time, or authorized persons who are called upon to contribute time and services as consultants or advisers, may be authorized by the agency head. Complete explanation and justification must be shown on the travel expense voucher or attached thereto.

(d) Travel expenses of public employees for the sole purpose of taking merit system or other job placement examinations, written or oral, shall not be allowed under any circumstances, except that upon prior written approval of the agency head or his or her designee, candidates for executive or professional positions may be allowed travel expenses pursuant to this section.

(e) Travel expenses of public officers or employees for the purpose of implementing, organizing, directing, coordinating, or administering, or supporting the implementation, organization, direction, coordination, or administration of, activities related to or involving travel to a terrorist state shall not be allowed under any circumstances. For purposes of this section, "terrorist state" is defined as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism.

(f) The agency head, or a designated representative, may pay by advancement or reimbursement, or a combination thereof, the costs of per diem of travelers for foreign travel at the current rates as specified in the federal publication "Standardized Regulations (Government Civilians, Foreign Areas)" and incidental expenses as provided in this section.

(g) A traveler who becomes sick or injured while away from his or her official headquarters and is therefore unable to perform the official business of the agency may continue to receive subsistence as provided in subsection (6) during this period of illness or injury until such time as he or she is able to perform the official business of the agency or returns to his or her official headquarters, whichever is earlier. Such subsistence may be paid when approved by the agency head or his or her designee.

(h) The State Surgeon General or a designee may authorize travel expenses incidental to the rendering of medical services for and on behalf of clients of the Department of Health. The Department of Health may establish rates lower than the rate provided in this section for these travel expenses.

(4) OFFICIAL HEADQUARTERS.—The official headquarters of an officer or employee assigned to an office shall be the city or town in which the office is located except that:

(a) The official headquarters of a person located in the field shall be the city or town nearest to the area where the majority of the person's work is performed, or such other city, town, or area as may be designated by the agency head provided that in all cases such designation must be in the best interests of the agency and not for the convenience of the person.

(b) When any state employee is stationed in any city or town for a period of over 30 continuous workdays, such city or town shall be deemed to be the employee's official headquarters, and he or she shall not be allowed per diem or subsistence, as provided in this section, after the said period of 30 continuous workdays has elapsed, unless this period of time is extended by the express approval of the agency head or his or her designee.

(c) A traveler may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but any time lost from regular duties shall be taken as annual leave and authorized in the usual manner. The traveler shall not be reimbursed for travel expenses in excess of the established rate for per diem allowable had he or she remained at his or her assigned post. However, when a traveler has been temporarily assigned away from his or her official headquarters for an approved period extending beyond 30 days, he or she shall be entitled to reimbursement for travel expenses at the established rate of one round trip for each 30-day period actually taken to his or her home in addition to pay and allowances otherwise provided.

(5) COMPUTATION OF TRAVEL TIME FOR REIMBURSEMENT.—For purposes of reimbursement and methods of calculating fractional days of travel, the following principles are prescribed:

(a) The travel day for Class A travel shall be a calendar day (midnight to midnight). The travel day for Class B travel shall begin at the same time as the travel period. For Class A and Class B travel, the traveler shall be reimbursed one-fourth of the authorized rate of per diem for each quarter, or fraction thereof, of the travel day included within the travel period. Class A and Class B travel shall include any assignment on official business outside of regular office hours and away from regular places of employment when it is considered reasonable and necessary to stay overnight and for which travel expenses are approved.

(b) A traveler shall not be reimbursed on a per diem basis for Class C travel, but shall receive subsistence as provided in this section, which allowance for meals shall be based on the following schedule:

1. Breakfast—When travel begins before 6 a.m. and extends beyond 8 a.m.
2. Lunch—When travel begins before 12 noon and extends beyond 2 p.m.
3. Dinner—When travel begins before 6 p.m. and extends beyond 8 p.m., or when travel occurs during nighttime hours due to special assignment.

No allowance shall be made for meals when travel is confined to the city or town of the official headquarters or immediate vicinity; except assignments of official business outside the traveler's regular place of employment if travel expenses are approved. The Chief Financial Officer shall establish a schedule for processing Class C travel subsistence payments at least on a monthly basis.

(6) RATES OF PER DIEM AND SUBSISTENCE ALLOWANCE.—For purposes of reimbursement rates and methods of calculation, per diem and subsistence allowances are provided as follows:

(a) All travelers shall be allowed for subsistence when traveling to a convention or conference or when traveling within or outside the state in order to conduct bona fide state business, which convention, conference, or business serves a direct and lawful public purpose with relation to the public agency served by the person attending such meeting or conducting such business, either of the following for each day of such travel at the option of the traveler:

1. Eighty dollars per diem; or
2. If actual expenses exceed $80, the amounts permitted in paragraph (b) for subsistence, plus actual expenses for lodging at a single-occupancy rate to be substantiated by paid bills therefor.

When lodging or meals are provided at a state institution, the traveler shall be reimbursed only for the actual expenses of such lodging or meals, not to exceed the maximum provided for in this subsection.

(b) All travelers shall be allowed the following amounts for subsistence while on Class C travel on official business as provided in paragraph (5)(b):

1. Breakfast. $6
2. Lunch. $11
3. Dinner. $19

(c) No one, whether traveling out of state or in state, shall be reimbursed for any meal or lodging included in a convention or conference registration fee paid by the state.

(7) TRANSPORTATION.—

(a) All travel must be by a usually traveled route. In case a person travels by an indirect route for his or her own convenience, any extra costs shall be borne by the traveler; and reimbursement for expenses shall be based only on such charges as would have been incurred by a usually traveled route. The agency head or his or her designee shall designate the most economical method of travel for each trip, keeping in mind the following conditions:

1. The nature of the business.
2. The most efficient and economical means of travel (considering time of the traveler, impact on the productivity of the traveler, cost of transportation, and per diem or subsistence required). When it is more efficient and economical to either the traveler or the agency head, jet service offered by any airline, whether on state contract or not, may be used when the cost is within an approved threshold determined by the agency head or his or her designee.
3. The number of persons making the trip and the amount of equipment or material to be transported.

(b) The Department of Financial Services may provide any form it deems necessary to cover travel requests for traveling on official business and when paid by the state.

(c) Transportation by common carrier when traveling on official business and paid for personally by the traveler, shall be substantiated by a receipt therefor. Federal tax shall not be reimbursable to the traveler unless the state and other public agencies are also required by federal law to pay such tax. In the event transportation other than the most economical class as approved by the agency head is provided by a common carrier on a flight check or credit card, the charges in excess of the most economical class shall be refunded by the traveler to the agency charged with the transportation provided in this manner.

(d)1. The use of privately owned vehicles for official travel in lieu of publicly owned vehicles or common carriers may be authorized by the agency head or his or her designee. Whenever travel is by privately owned vehicle:

a. A traveler shall be entitled to a mileage allowance at a rate of 44.5 cents per mile; or
b. A traveler shall be entitled to the common carrier fare for such travel if determined by the agency head to be more economical.

2. Reimbursement for expenditures related to the operation, maintenance, and ownership of a vehicle shall not be allowed when privately owned vehicles are used on public business and reimbursement is made pursuant to this paragraph, except as provided in subsection (8).
3. All mileage shall be shown from point of origin to point of destination and, when possible, shall be computed on the basis of the current map of the Department of Transportation. Vicinity mileage necessary for the conduct of

official business is allowable but must be shown as a separate item on the expense voucher.

(e) Transportation by chartered vehicles when traveling on official business may be authorized by the agency head when necessary or where it is to the advantage of the agency, provided the cost of such transportation does not exceed the cost of transportation by privately owned vehicle pursuant to paragraph (d).

(f) The agency head or his or her designee may grant monthly allowances in fixed amounts for use of privately owned automobiles on official business in lieu of the mileage rate provided in paragraph (d). Allowances granted pursuant to this paragraph shall be reasonable, taking into account the customary use of the automobile, the roads customarily traveled, and whether any of the expenses incident to the operation, maintenance, and ownership of the automobile are paid from funds of the agency or other public funds. Such allowance may be changed at any time, and shall be made on the basis of a signed statement of the traveler, filed before the allowance is granted or changed, and at least annually thereafter. The statement shall show the places and distances for an average typical month's travel on official business, and the amount that would be allowed under the approved rate per mile for the travel shown in the statement, if payment had been made pursuant to paragraph (d).

(g) No contract may be entered into between a public officer or employee, or any other person, and a public agency, in which a depreciation allowance is used in computing the amount due by the agency to the individual for the use of a privately owned vehicle on official business; provided, any such existing contract shall not be impaired.

(h) No traveler shall be allowed either mileage or transportation expense when gratuitously transported by another person or when transported by another traveler who is entitled to mileage or transportation expense. However, a traveler on a private aircraft shall be reimbursed the actual amount charged and paid for the fare for such transportation up to the cost of a commercial airline ticket for the same flight, even though the owner or pilot of such aircraft is also entitled to transportation expense for the same flight under this subsection.

(8) OTHER EXPENSES.—

(a) The following incidental travel expenses of the traveler may be reimbursed:

1. Taxi fare.
2. Ferry fares; and bridge, road, and tunnel tolls.
3. Storage or parking fees.
4. Communication expense.
5. Convention registration fee while attending a convention or conference which will serve a direct public purpose with relation to the public agency served by the person attending such meetings. A traveler may be reimbursed the actual and necessary fees for attending events which are not included in a basic registration fee that directly enhance the public purpose of the participation of the agency in the conference. Such expenses may include, but not be limited to, banquets and other meal functions. It shall be the responsibility of the traveler to substantiate that the charges were proper and necessary. However, any meals or lodging included in the registration fee will be deducted in accordance with the allowances provided in subsection (6).

(b) Other expenses which are not specifically authorized by this section may be approved by the Department of Financial Services pursuant to rules adopted by it. Expenses approved pursuant to this paragraph shall be reported by the Department of Financial Services to the Auditor General annually.

(9) RULES.—

(a) The Department of Financial Services shall adopt such rules, including, but not limited to, the general criteria to be used by a state agency to predetermine justification for attendance by state officers and employees and authorized persons at conventions and conferences, and prescribe such forms as are necessary to effectuate the purposes of this section. The department may also adopt rules prescribing the proper disposition and use of promotional items and rebates offered by common carriers and other entities in connection with travel at public expense; however, before adopting such rules, the department shall consult with the appropriation committees of the Legislature.

(b) Each state agency shall adopt such additional specific rules and specific criteria to be used by it to predetermine justification for attendance by state officers and employees and authorized persons at conventions and conferences, not in conflict with the rules of the Department of Financial Services or with the general criteria to be

used by a state agency to predetermine justification for attendance by state officers and employees and authorized persons at conventions, as may be necessary to effectuate the purposes of this section.

(10) FRAUDULENT CLAIMS.—Claims submitted pursuant to this section shall not be required to be sworn to before a notary public or other officer authorized to administer oaths, but any claim authorized or required to be made under any provision of this section shall contain a statement that the expenses were actually incurred by the traveler as necessary travel expenses in the performance of official duties and shall be verified by a written declaration that it is true and correct as to every material matter; and any person who willfully makes and subscribes any such claim which he or she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under the provisions of this section of a claim which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such claim, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Whoever shall receive an allowance or reimbursement by means of a false claim shall be civilly liable in the amount of the overpayment for the reimbursement of the public fund from which the claim was paid.

(11) TRAVEL AUTHORIZATION AND VOUCHER FORMS.—

(a) *Authorization forms.*—The Department of Financial Services shall furnish a uniform travel authorization request form which shall be used by all state officers, employees, and authorized persons when requesting approval for the performance of travel to a convention or conference. The form shall include, but not be limited to, provision for the name of each traveler, purpose of travel, period of travel, estimated cost to the state, and a statement of benefits accruing to the state by virtue of such travel. A copy of the program or agenda of the convention or conference, itemizing registration fees and any meals or lodging included in the registration fee, shall be attached to, and filed with, the copy of the travel authorization request form on file with the agency. The form shall be signed by the traveler and by the traveler's supervisor stating that the travel is to be incurred in connection with official business of the state. The head of the agency or his or her designated representative shall not authorize or approve such request in the absence of the appropriate signatures. A copy of the travel authorization form shall be attached to, and become a part of, the support of the agency's copy of the travel voucher.

(b) *Voucher forms.*—

1. The Department of Financial Services shall furnish a uniform travel voucher form which shall be used by all state officers, employees, and authorized persons when submitting travel expense statements for approval and payment. No travel expense statement shall be approved for payment by the Chief Financial Officer unless made on the form prescribed and furnished by the department. The travel voucher form shall provide for, among other things, the purpose of the official travel and a certification or affirmation, to be signed by the traveler, indicating the truth and correctness of the claim in every material matter, that the travel expenses were actually incurred by the traveler as necessary in the performance of official duties, that per diem claimed has been appropriately reduced for any meals or lodging included in the convention or conference registration fees claimed by the traveler, and that the voucher conforms in every respect with the requirements of this section. The original copy of the executed uniform travel authorization request form shall be attached to the uniform travel voucher on file with the respective agency.

2. Statements for travel expenses incidental to the rendering of medical services for and on behalf of clients of the Department of Health shall be on forms approved by the Department of Financial Services.

(12) ADVANCEMENTS.—Notwithstanding any of the foregoing restrictions and limitations, an agency head or his or her designee may make, or authorize the making of, advances to cover anticipated costs of travel to travelers. Such advancements may include the costs of subsistence and travel of any person transported in the care or custody of the traveler in the performance of his or her duties.

(13) DIRECT PAYMENT OF EXPENSES BY AGENCY.—Whenever an agency requires an employee to incur either Class A or Class B travel on emergency notice to the traveler, such traveler may request the agency to pay his or her expenses for meals and lodging directly to the vendor, and the agency may pay the vendor the actual expenses for meals and lodging during the travel period, limited to an amount not to exceed that authorized pursuant to this section. In emergency situations, the agency head or his or her designee may authorize an increase in the amount paid for a specific meal, provided that the total daily cost of meals does not exceed the total amount authorized for meals

each day. The agency head or his or her designee may also grant prior approval for a state agency to make direct payments of travel expenses in other situations that result in cost savings to the state, and such cost savings shall be documented in the voucher submitted to the Chief Financial Officer for the direct payment of travel expenses. The provisions of this subsection shall not be deemed to apply to any legislator or to any employee of the Legislature.

(14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING ORGANIZATIONS.—

(a) The following entities may establish rates that vary from the per diem rate provided in paragraph (6)(a), the subsistence rates provided in paragraph (6)(b), or the mileage rate provided in paragraph (7)(d) if those rates are not less than the statutorily established rates that are in effect for the 2005-2006 fiscal year:

1. The governing body of a county by the enactment of an ordinance or resolution;

2. A county constitutional officer, pursuant to s. 1(d), Art. VIII of the State Constitution, by the establishment of written policy;

3. The governing body of a district school board by the adoption of rules;

4. The governing body of a special district, as defined in s. 189.012, except those special districts that are subject to s. 166.021(9), by the enactment of a resolution; or

5. Any metropolitan planning organization created pursuant to s. 339.175 or any other separate legal or administrative entity created pursuant to s. 339.175 of which a metropolitan planning organization is a member, by the enactment of a resolution.

(b) Rates established pursuant to paragraph (a) must apply uniformly to all travel by the county, county constitutional officer and entity governed by that officer, district school board, special district, or metropolitan planning organization.

(c) Except as otherwise provided in this subsection, counties, county constitutional officers and entities governed by those officers, district school boards, special districts, and metropolitan planning organizations, other than those subject to s. 166.021(9), remain subject to the requirements of this section.

(15) CLASS C TRAVEL.—Moneys appropriated from the State Treasury may not be used to pay per diem or subsistence related to Class C travel.

History.—ss. 1, 3, ch. 22830, 1945; ss. 1, 2, 3, ch. 23892, 1947; ss. 1, 3, ch. 25040, 1949; ss. 1, 3, ch. 26910, 1951; s. 1, ch. 28303, 1953; s. 1, ch. 29628, 1955; s. 1, ch. 57-230; s. 1, ch. 61-183; s. 1, ch. 61-43; s. 1, ch. 63-5; s. 1, ch. 63-192; s. 1, ch. 63-122; s. 1, ch. 63-400; ss. 2, 3, ch. 67-371; ss. 1, 2, ch. 67-2206; s. 1, ch. 69-193; s. 1, ch. 69-381; ss. 12, 23, 31, 35, ch. 69-106; s. 65, ch. 71-136; s. 1, ch. 72-213; s. 1, ch. 72-217; s. 1, ch. 72-324; s. 26, ch. 72-404; s. 1, ch. 73-169; s. 1, ch. 74-15; s. 1, ch. 74-246; s. 1, ch. 74-365; ss. 1, 2, ch. 75-33; s. 1, ch. 76-166; s. 2, ch. 76-208; ss. 1, 2, ch. 76-250; s. 1, ch. 77-174; s. 1, ch. 77-231; ss. 1, 2, ch. 77-437; s. 2, ch. 78-95; s. 51, ch. 79-190; s. 1, ch. 79-205; s. 1, ch. 79-303; s. 1, ch. 79-412; ss. 1, 2, ch. 81-207; ss. 1, 2, ch. 83-307; s. 1, ch. 85-140; s. 1, ch. 87-407; s. 4, ch. 88-235; s. 12, ch. 89-291; s. 18, ch. 91-45; s. 1, ch. 94-139; s. 1403, ch. 95-147; s. 26, ch. 95-312; s. 5, ch. 96-310; s. 43, ch. 96-399; s. 23, ch. 98-136; s. 9, ch. 99-8; s. 7, ch. 99-155; s. 16, ch. 99-399; ss. 48, 53, ch. 2001-254; ss. 46, 79, ch. 2002-402; s. 2, ch. 2003-125; s. 123, ch. 2003-261; s. 49, ch. 2003-399; s. 5, ch. 2004-5; s. 32, ch. 2004-269; s. 23, ch. 2005-71; s. 12, ch. 2006-1; s. 6, ch. 2006-18; ss. 14, 53, ch. 2006-26; s. 1, ch. 2006-41; s. 3, ch. 2006-54; s. 2, ch. 2007-196; s. 6, ch. 2008-6; s. 13, ch. 2008-153; s. 2, ch. 2010-4; s. 4, ch. 2011-143; s. 58, ch. 2014-22.

112.062 Cabinet members; educational and informational travel expenses.—When he or she deems it necessary in order to carry out an official function of office, a member of the Cabinet may incur and be reimbursed for travel expenses pursuant to s. 112.061 for the purpose of educating and informing the public as to the Cabinet member's official duties.

History.—s. 1, ch. 80-212; s. 685, ch. 95-147.

112.063 Reimbursement of county employees for educational expenses.—County constitutional officers and county commissioners are authorized to reimburse employees for educational expenses, subject to the following conditions:

(1) The coursework must be designed to enhance the knowledge, skills, and abilities relating to official duties which the employees perform.

(2) The reimbursement of educational expenses in no way obligates the officer or commissioner to grant time off or leave for the taking or completion of such course or program of instruction.

(3) An employee shall not be permitted to utilize any space, personnel, equipment, or supplies of the office by which he or she is employed in the process of fulfilling any of the requirements imposed by the coursework for which he or she is being reimbursed.

(4) The limitations contained in subsections (1)-(3) shall not be construed to apply to any courses offered by or as a part of an educational program sponsored by any state agency for which the constitutional officer or commissioner is obligated to perform duties prescribed by law, or any educational program conducted in furtherance of s. 195.002, if such limitations did not exist prior to July 1, 1990.

Nothing in this section shall be construed as prohibiting employees from receiving otherwise authorized per diem expenses provided for by s. 112.061, nor shall it be construed as prohibiting the payment of wages otherwise due under the provisions of state or federal law.

History.—s. 1, ch. 90-80; s. 686, ch. 95-147.

112.08 Group insurance for public officers, employees, and certain volunteers; physical examinations.—

(1) As used in this section, the term "local governmental unit" means any county, municipality, community college district, school board, or special district or any county officer listed in s. 1(d), Art. VIII of the State Constitution.

(2)(a) Notwithstanding any general law or special act to the contrary, every local governmental unit is authorized to provide and pay out of its available funds for all or part of the premium for life, health, accident, hospitalization, legal expense, or annuity insurance, or all or any kinds of such insurance, for the officers and employees of the local governmental unit and for health, accident, hospitalization, and legal expense insurance for the dependents of such officers and employees upon a group insurance plan and, to that end, to enter into contracts with insurance companies or professional administrators to provide such insurance or with a corporation not for profit whose membership consists entirely of local governmental units authorized to enter into risk management consortiums under this subsection. Before entering any contract for insurance, the local governmental unit shall advertise for competitive bids; and such contract shall be let upon the basis of such bids. If a contracting health insurance provider becomes financially impaired as determined by the Office of Insurance Regulation of the Financial Services Commission or otherwise fails or refuses to provide the contracted-for coverage or coverages, the local government may purchase insurance, enter into risk management programs, or contract with third-party administrators and may make such acquisitions by advertising for competitive bids or by direct negotiations and contract. The local governmental unit may undertake simultaneous negotiations with those companies which have submitted reasonable and timely bids and are found by the local governmental unit to be fully qualified and capable of meeting all servicing requirements. Each local governmental unit may self-insure any plan for health, accident, and hospitalization coverage or enter into a risk management consortium to provide such coverage, subject to approval based on actuarial soundness by the Office of Insurance Regulation; and each shall contract with an insurance company or professional administrator qualified and approved by the office or with a corporation not for profit whose membership consists entirely of local governmental units authorized to enter into a risk management consortium under this subsection to administer such a plan.

(b) In order to obtain approval from the Office of Insurance Regulation of any self-insured plan for health, accident, and hospitalization coverage, each local governmental unit or consortium shall submit its plan along with a certification as to the actuarial soundness of the plan, which certification is prepared by an actuary who is a member of the Society of Actuaries or the American Academy of Actuaries. The Office of Insurance Regulation shall not approve the plan unless it determines that the plan is designed to provide sufficient revenues to pay current and future liabilities, as determined according to generally accepted actuarial principles. After implementation of an approved plan, each local governmental unit or consortium shall annually submit to the Office of Insurance Regulation a report which includes a statement prepared by an actuary who is a member of the Society of Actuaries or the American Academy of Actuaries as to the actuarial soundness of the plan. The report is due 90 days after the close of the fiscal year of the plan. The report shall consist of, but is not limited to:

1. The adequacy of contribution rates in meeting the level of benefits provided and the changes, if any, needed in the contribution rates to achieve or preserve a level of funding deemed adequate to enable payment of the benefit amounts provided under the plan and a valuation of present assets, based on statement value, and prospective assets and liabilities of the plan and the extent of any unfunded accrued liabilities.
2. A plan to amortize any unfunded liabilities and a description of actions taken to reduce unfunded liabilities.
3. A description and explanation of actuarial assumptions.
4. A schedule illustrating the amortization of any unfunded liabilities.
5. A comparative review illustrating the level of funds available to the plan from rates, investment income, and other sources realized over the period covered by the report with the assumptions used.
6. A statement by the actuary that the report is complete and accurate and that in the actuary's opinion the techniques and assumptions used are reasonable and meet the requirements and intent of this subsection.
7. Other factors or statements as required by the office in order to determine the actuarial soundness of the plan.

All assumptions used in the report shall be based on recognized actuarial principles acceptable to the Office of Insurance Regulation. The office shall review the report and shall notify the administrator of the plan and each entity participating in the plan, as identified by the administrator, of any actuarial deficiencies. Each local governmental unit is responsible for payment of valid claims of its employees that are not paid within 60 days after receipt by the plan administrator or consortium.

(c) Every local governmental unit is authorized to expend funds for preemployment physical examinations and postemployment physical examinations.

(3) Each local governmental unit is authorized to commingle in a common fund, plan, or program all payments for life, health, accident, hospitalization, or annuity insurance or all or any kinds of such insurance whether paid by the local governmental unit, officer or employee, or otherwise. The local governmental unit may determine the portion of the cost, if any, of such fund, plan, or program to be paid by officers or employees of the local governmental unit and fix the amounts to be paid by each such officer or employee as will best serve the public interest.

(4)(a) A local governmental unit may, at its discretion, provide group insurance consistent with the provisions of this section for volunteer or auxiliary firefighters, volunteer or auxiliary law enforcement agents, or volunteer or auxiliary ambulance or emergency service personnel within its jurisdiction. No insurance provided to volunteer personnel shall be used in the computation of workers' compensation benefits or in the determination of employee status for the purposes of collective bargaining.

(b) Benefits provided under group insurance policies pursuant to paragraph (a) shall not exceed benefits provided to employees under subsection (2) and ss. 112.19 and 112.191.

(5) The Department of Management Services shall initiate and supervise a group insurance program providing death and disability benefits for active members of the Florida Highway Patrol Auxiliary, with coverage beginning July 1, 1978, and purchased from state funds appropriated for that purpose. The Department of Management Services, in cooperation with the Office of Insurance Regulation, shall prepare specifications necessary to implement the program, and the Department of Management Services shall receive bids and award the contract in accordance with general law.

(6) The Financial Services Commission is authorized to adopt rules to carry out the provisions of this section as they pertain to its duties.

(7) All medical records and medical claims records in the custody of a unit of county or municipal government relating to county or municipal employees, former county or municipal employees, or eligible dependents of such employees enrolled in a county or municipal group insurance plan or self-insurance plan shall be kept confidential and are exempt from the provisions of s. 119.07(1). Such records shall not be furnished to any person other than the employee or the employee's legal representative, except upon written authorization of the employee, but may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the employee or the employee's legal representative by the party seeking such records.

(8) Patient medical records and medical claims records of water management district employees, former employees, and eligible dependents in the custody or control of the water management district under its group insurance plan established pursuant to s. 373.605 are confidential and exempt from s. 119.07(1). Such records shall not be furnished to any person other than the employee or the employee's legal representative, except upon written authorization of the employee, but may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the employee or the employee's legal representative by the party seeking such records.

History.—s. 1, ch. 20852, 1941; s. 1, ch. 69-300; s. 1, ch. 72-338; s. 1, ch. 76-208; s. 1, ch. 77-89; s. 50, ch. 79-40; s. 1, ch. 79-337; s. 67, ch. 79-400; s. 3, ch. 83-292; ss. 1, 2, ch. 84-307; s. 4, ch. 86-180; s. 26, ch. 90-360; s. 41, ch. 92-279; s. 55, ch. 92-326; s. 687, ch. 95-147; s. 33, ch. 96-406; s. 1, ch. 2001-123; s. 124, ch. 2003-261; s. 6, ch. 2004-305; s. 13, ch. 2005-2; s. 1, ch. 2016-194.

112.0801 Group insurance; participation by retired employees.—

(1) Any state agency, county, municipality, special district, community college, or district school board that provides life, health, accident, hospitalization, or annuity insurance, or all of any kinds of such insurance, for its officers and employees and their dependents upon a group insurance plan or self-insurance plan shall allow all former personnel who retired before October 1, 1987, as well as those who retire on or after such date, and their eligible dependents, the option of continuing to participate in the group insurance plan or self-insurance plan. Retirees and their eligible dependents shall be offered the same health and hospitalization insurance coverage as is offered to active employees at a premium cost of no more than the premium cost applicable to active employees. For retired employees and their eligible dependents, the cost of continued participation may be paid by the employer or by the retired employees. To determine health and hospitalization plan costs, the employer shall commingle the claims experience of the retiree group with the claims experience of the active employees; and, for other types of coverage, the employer may commingle the claims experience of the retiree group with the claims experience of active employees. Retirees covered under Medicare may be experience-rated separately from the retirees not covered by Medicare and from active employees if the total premium does not exceed that of the active group and coverage is basically the same as for the active group.

(2) For purposes of this section, "retiree" means any officer or employee who retires under a state retirement system or a state optional annuity or retirement program or is placed on disability retirement and who begins receiving retirement benefits immediately after retirement from employment. In addition to these requirements, any officer or employee who retires under the Florida Retirement System Investment Plan established under part II of chapter 121 is considered a "retired officer or employee" or "retiree" as used in this section if he or she:

(a) Meets the age and service requirements to qualify for normal retirement as set forth in s. 121.021(29); or

(b) Has attained the age specified by s. 72(t)(2)(A)(i) of the Internal Revenue Code and has the years of service required for vesting as set forth in s. 121.021(45).

History.—s. 2, ch. 76-151; s. 1, ch. 79-88; s. 1, ch. 80-304; s. 5, ch. 81-103; s. 1, ch. 83-294; s. 1, ch. 87-373; s. 1, ch. 2007-92; s. 1, ch. 2007-100; s. 2, ch. 2011-68.

112.0804 Health insurance for retirees under the Florida Retirement System; Medicare supplement and fully insured coverage.—

(1) The Department of Management Services shall solicit competitive bids from state-licensed insurance companies to provide and administer a fully insured Medicare supplement policy for all eligible retirees of a state or local public employer. Such Medicare supplement policy shall meet the provisions of ss. 627.671-627.675. For the purpose of this subsection, "eligible retiree" means any public employee who retired from a state or local public employer who is covered by Medicare, Parts A and B. The Department of Management Services shall authorize one company to offer the Medicare supplement coverage to all eligible retirees. All premiums shall be paid by the retiree.

(2) The Department of Management Services shall solicit competitive bids from state-licensed insurance companies to provide and administer fully insured health insurance coverage for all public employees who retired from a state or local public employer who are not covered by Medicare, Parts A and B. The Department of

Management Services may authorize one company to offer such coverage if the proposed benefits and premiums are reasonable. If such coverage is authorized, all premiums shall be paid for by the retiree.

History.—s. 1, ch. 85-305; s. 42, ch. 92-279; s. 55, ch. 92-326.

112.0805 Employer notice of insurance eligibility to employees who retire.— Any employer who provides insurance coverage under s. 110.123 or s. 112.0801 shall notify those employees who retire of their eligibility to participate in either the same group insurance plan or self-insurance plan as provided in ss. 110.123 and 112.0801, or the insurance coverage as provided by this law.

History.—s. 2, ch. 85-305.

112.081 Circuit judges, participation.— All circuit judges who, on July 1, 1967, are participating in an insurance program for county employees are hereby deemed to be county employees for the purpose of such participation even though there is no actual cash salary supplement received from the county.

History.—s. 4, ch. 67-301.

112.09 Evidence of election to provide insurance.— The election to exercise such authority shall be evidenced by resolution, duly recorded in the official minutes, adopted by the board of county commissioners in the case of a county, by the school board, in the case of a school district and by the members of the board, or department head if an individual, in the case of any state department, board or bureau, and by the governing body by resolution or ordinance in the case of any other governmental unit of the State of Florida.

History.—s. 2, ch. 20852, 1941; s. 1, ch. 69-300.

112.10 Deduction and payment of premiums.— Upon the request in writing of any officer or employee, the proper officials of each and every county, school board, governmental unit, department, board or bureau of the state, are hereby authorized and empowered to deduct from the wages of such officer or employee, periodically, the amount of the premium which such officer or employee has agreed to pay for such insurance, and to pay or remit the same directly to the insurance company issuing such group insurance.

History.—s. 3, ch. 20852, 1941; s. 1, ch. 69-300; s. 2, ch. 72-338.

112.11 Participation voluntary.— The participation in such group insurance by any officer or employee shall be entirely voluntary at all times. Any officer or employee may, upon any payday, withdraw or retire from such group insurance plan, upon giving the employer written notice thereof and directing the discontinuance of deductions from wages in payment of such premiums.

History.—s. 4, ch. 20852, 1941; s. 3, ch. 72-338; s. 688, ch. 95-147.

112.13 Insurance additional to workers' compensation.— The insurance permitted and allowed under this law shall be in addition to, and in no manner in lieu of the provisions of the Workers' Compensation Law.

History.—s. 6, ch. 20852, 1941; s. 51, ch. 79-40.

112.14 Purpose and intent of law.— It is hereby declared to be the purpose and intent of this law to make available upon a voluntary participation basis to the several officers and employees aforesaid, the economics, protection and benefits of group insurance not available to each officer and employee as an individual. It is also the purpose and intent of this law to provide authority for the payment of premiums or charges for group insurance for county officers whose compensation is fixed by chapter 145 in addition to the compensation provided in chapter 145.

History.—s. 5, ch. 20852, 1941; s. 5, ch. 72-338.

112.151 Group hospitalization insurance for county officers and employees.— The governing body of each county in the state is authorized to provide and pay out of its available funds all or part of the premiums for hospitalization insurance coverage for the officers or employees of the county and to enter into contracts with insurance companies to provide such insurance.

History.—s. 1, ch. 78-267.

112.153 Local governmental group insurance plans; refunds with respect to overcharges by providers.—A participant in a group insurance plan offered by a county, municipality, school board, local governmental unit, and special taxing unit, who discovers that he or she was overcharged by a hospital, physician, clinical lab, and other health care providers, shall receive a refund of 50 percent of any amount recovered as a result of such overcharge, up to a maximum of $1,000 per admission. All such instances of overcharge shall be reported to the Agency for Health Care Administration for action it deems appropriate.

History.—s. 4, ch. 83-292; s. 1, ch. 91-48; s. 689, ch. 95-147; s. 9, ch. 97-95.

112.161 Change in position or reclassification; continuance or resumption of membership in retirement system.—

(1) Any person who is a participant in any state or county retirement system, who changes his or her position of employment, or who is reclassified so that under any existing law such person would participate in a different retirement system, may continue to participate and come under the same retirement system in which he or she participated or came under before changing positions or being reclassified so long as such person remains in the employ of the state or county and continues to make the contributions required by law. Any person who has changed positions or been reclassified heretofore may come back under and participate in the retirement system to which he or she belonged before such change or reclassification upon payment of all back contributions, plus 3 percent interest per annum, that would have been required by law had he or she continued to participate and come under such system continuously, such election to be made and payment to be made on or before the time of retirement.

(2) The provisions of this section shall supersede any existing law relating to state and county retirement systems or pensions, provided nothing herein shall be construed to apply to State Supreme Court justices, as provided in chapter 25; nor to circuit judges as provided by chapter 38; nor to members of Duval County employees pension fund as provided in chapter 23259, Acts, 1945, as amended by chapter 27520, Acts, 1951, and chapter 27523, Acts, 1951.

History.—ss. 1, 2, ch. 57-752; ss. 24, 35, ch. 69-106; s. 690, ch. 95-147.

112.171 Employee wage deductions.—

(1) The counties, municipalities, and special districts of the state and the departments, agencies, bureaus, commissions, and officers thereof are authorized and permitted in their sole discretion to make deductions from the salary or wage of any employee or employees in such amount as shall be authorized and requested by such employee or employees and for such purpose as shall be authorized and requested by such employee or employees and shall pay such sums so deducted as directed by such employee or employees.

(2) It is the intent and purpose of this section to vest in the public officers, agencies and commissions herein enumerated the sole power and discretion to approve or disapprove requested deductions and the approval of and making of approved deductions shall not require the approval or making of other requested deductions.

History.—s. 1, ch. 59-409; s. 26, ch. 79-190.

112.175 Employee wages; withholding to repay educational loan.—

(1)(a) Any person who has received an educational loan made or guaranteed by the state or any of its political subdivisions and who at any time becomes or is an employee of the state or any of its political subdivisions shall be deemed to have agreed as a condition of employment to have consented to voluntary or involuntary withholding of wages to repay such loan. Any such employee who has defaulted or does default on the repayment of such loan shall, within 60 days after service of a notice of default by the agency holding the loan to the employee and the employing agency, establish a loan repayment schedule which shall be agreed to by both the agency holding the loan and the employee for repaying such defaulted loan through payroll deductions. Under no circumstances may an amount in excess of 10 percent per pay period of the pay of such employee be required by the agency holding the loan as part of a repayment schedule or plan. If such employee fails to establish a repayment schedule within the specified period of time or fails to meet the terms and conditions of the agreed to or approved repayment schedule as authorized by this subsection, such employee shall be deemed to have breached an essential condition of employment and shall be deemed to have consented to the involuntary withholding of wages or salary for the repayment of the loan.

(b) No person who is employed by the state or any of its political subdivisions on or after October 1, 1986, may be dismissed for having defaulted on the repayment of an educational loan made or guaranteed by the state or any of its political subdivisions.

(2) The Administration Commission shall adopt rules to implement this section, which shall include, but not be limited to, a standard method of calculating amounts to be withheld from employees who have failed to establish a repayment schedule within the specified period of time or failed to meet the terms and conditions of the agreed to or approved repayment schedule provided for in this section. Such method shall consider the following factors:

(a) The amount of the loan which remains outstanding;

(b) The income of the employee who owes such amount; and

(c) Other factors such as the number of dependents supported by the employee.

History.—ss. 1, 2, ch. 86-129; s. 691, ch. 95-147.

112.18 Firefighters and law enforcement or correctional officers; special provisions relative to disability.—

(1)(a) Any condition or impairment of health of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter or any law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), or (3) caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence. However, any such firefighter or law enforcement officer must have successfully passed a physical examination upon entering into any such service as a firefighter or law enforcement officer, which examination failed to reveal any evidence of any such condition. Such presumption does not apply to benefits payable under or granted in a policy of life insurance or disability insurance, unless the insurer and insured have negotiated for such additional benefits to be included in the policy contract.

(b)1. For any workers' compensation claim filed under this section and chapter 440 occurring on or after July 1, 2010, a law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), or (3) suffering from tuberculosis, heart disease, or hypertension is presumed not to have incurred such disease in the line of duty as provided in this section if the law enforcement officer, correctional officer, or correctional probation officer:

a. Departed in a material fashion from the prescribed course of treatment of his or her personal physician and the departure is demonstrated to have resulted in a significant aggravation of the tuberculosis, heart disease, or hypertension resulting in disability or increasing the disability or need for medical treatment; or

b. Was previously compensated pursuant to this section and chapter 440 for tuberculosis, heart disease, or hypertension and thereafter sustains and reports a new compensable workers' compensation claim under this section and chapter 440, and the law enforcement officer, correctional officer, or correctional probation officer has departed in a material fashion from the prescribed course of treatment of an authorized physician for the preexisting workers' compensation claim and the departure is demonstrated to have resulted in a significant aggravation of the tuberculosis, heart disease, or hypertension resulting in disability or increasing the disability or need for medical treatment.

2. As used in this paragraph, "prescribed course of treatment" means prescribed medical courses of action and prescribed medicines for the specific disease or diseases claimed and as documented in the prescribing physician's medical records.

3. If there is a dispute as to the appropriateness of the course of treatment prescribed by a physician under sub-subparagraph 1.a. or sub-subparagraph 1.b. or whether a departure in a material fashion from the prescribed course of treatment is demonstrated to have resulted in a significant aggravation of the tuberculosis, heart disease, or hypertension resulting in disability or increasing the disability or need for medical treatment, the law enforcement officer, correctional officer, or correctional probation officer is entitled to seek an independent medical examination pursuant to s. 440.13(5).

4. A law enforcement officer, correctional officer, or correctional probation officer is not entitled to the presumption provided in this section unless a claim for benefits is made prior to or within 180 days after leaving the employment of the employing agency.

(2) This section authorizes each governmental entity specified in subsection (1) to negotiate policy contracts for life and disability insurance to include accidental death benefits or double indemnity coverage which shall include the presumption that any condition or impairment of health of any firefighter, law enforcement officer, or correctional officer caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death was accidental and suffered in the line of duty, unless the contrary be shown by competent evidence.

History.—s. 1, ch. 65-480; s. 1, ch. 73-125; s. 32, ch. 77-104; s. 692, ch. 95-147; s. 21, ch. 99-392; s. 3, ch. 2002-236; s. 2, ch. 2010-175.

112.181 Firefighters, paramedics, emergency medical technicians, law enforcement officers, correctional officers; special provisions relative to certain communicable diseases.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control and Prevention, apply. For purposes of potential transmission of meningococcal meningitis or tuberculosis, the term "body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, and saliva, mucous, and other fluids through which infectious airborne organisms can be transmitted between persons.

(b) "Emergency rescue or public safety worker" means any person employed full time by the state or any political subdivision of the state as a firefighter, paramedic, emergency medical technician, law enforcement officer, or correctional officer who, in the course of employment, runs a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis and who is not employed elsewhere in a similar capacity. However, the term "emergency rescue or public safety worker" does not include any person employed by a public hospital licensed under chapter 395 or any person employed by a subsidiary thereof.

(c) "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

(d) "High risk of occupational exposure" means that risk that is incurred because a person subject to the provisions of this section, in performing the basic duties associated with his or her employment:

1. Provides emergency medical treatment in a non-health-care setting where there is a potential for transfer of body fluids between persons;

2. At the site of an accident, fire, or other rescue or public safety operation, or in an emergency rescue or public safety vehicle, handles body fluids in or out of containers or works with or otherwise handles needles or other sharp instruments exposed to body fluids;

3. Engages in the pursuit, apprehension, and arrest of law violators or suspected law violators and, in performing such duties, may be exposed to body fluids; or

4. Is responsible for the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, while on work detail outside the facility, or while being transported and, in performing such duties, may be exposed to body fluids.

(e) "Occupational exposure," in the case of hepatitis, meningococcal meningitis, or tuberculosis, means an exposure that occurs during the performance of job duties that may place a worker at risk of infection.

(2) PRESUMPTION; ELIGIBILITY CONDITIONS.—Any emergency rescue or public safety worker who suffers a condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis, that requires medical treatment, and that results in total or partial disability or death shall be presumed to have a disability suffered in the line of duty, unless the contrary is shown by competent evidence; however, in order to be entitled to the presumption, the emergency rescue or public safety worker must, by written affidavit as provided in s. 92.50, verify by written declaration that, to the best of his or her knowledge and belief:

(a) In the case of a medical condition caused by or derived from hepatitis, he or she has not:

1. Been exposed, through transfer of bodily fluids, to any person known to have sickness or medical conditions derived from hepatitis, outside the scope of his or her employment;

2. Had a transfusion of blood or blood components, other than a transfusion arising out of an accident or injury happening in connection with his or her present employment, or received any blood products for the treatment of a

coagulation disorder since last undergoing medical tests for hepatitis, which tests failed to indicate the presence of hepatitis;

3. Engaged in unsafe sexual practices or other high-risk behavior, as identified by the Centers for Disease Control and Prevention or the Surgeon General of the United States, or had sexual relations with a person known to him or her to have engaged in such unsafe sexual practices or other high-risk behavior; or

4. Used intravenous drugs not prescribed by a physician.

(b) In the case of meningococcal meningitis, in the 10 days immediately preceding diagnosis he or she was not exposed, outside the scope of his or her employment, to any person known to have meningococcal meningitis or known to be an asymptomatic carrier of the disease.

(c) In the case of tuberculosis, in the period of time since the worker's last negative tuberculosis skin test, he or she has not been exposed, outside the scope of his or her employment, to any person known by him or her to have tuberculosis.

(3) IMMUNIZATION.—Whenever any standard, medically recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is granted under this section, if medically indicated in the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, an emergency rescue or public safety worker may be required by his or her employer to undergo the immunization or prophylaxis unless the worker's physician determines in writing that the immunization or other prophylaxis would pose a significant risk to the worker's health. Absent such written declaration, failure or refusal by an emergency rescue or public safety worker to undergo such immunization or prophylaxis disqualifies the worker from the benefits of the presumption.

(4) LIFE AND DISABILITY INSURANCE COVERAGE.—This section does not apply to benefits payable under or granted in a noncompulsory policy of life insurance or disability insurance, unless the insurer and insured have negotiated for such additional benefits to be included in the policy contract. However, the state or any political subdivision of the state may negotiate a policy contract for life and disability insurance which includes accidental death benefits or double indemnity coverage for any condition or impairment of health suffered by an emergency rescue or public safety worker, which condition or impairment is caused by a disease described in this section and results in total or partial disability or death.

(5) RECORD OF EXPOSURES.—The employing agency shall maintain a record of any known or reasonably suspected exposure of an emergency rescue or public safety worker in its employ to the diseases described in this section and shall immediately notify the employee of such exposure. An emergency rescue or public safety worker shall file an incident or accident report with his or her employer of each instance of known or suspected occupational exposure to hepatitis infection, meningococcal meningitis, or tuberculosis.

(6) REQUIRED MEDICAL TESTS; PREEMPLOYMENT PHYSICAL.—In order to be entitled to the presumption provided by this section:

(a) An emergency rescue or public safety worker must, prior to diagnosis, have undergone standard, medically acceptable tests for evidence of the communicable disease for which the presumption is sought, or evidence of medical conditions derived therefrom, which tests fail to indicate the presence of infection. This paragraph does not apply in the case of meningococcal meningitis.

(b) On or after June 15, 1995, an emergency rescue or public safety worker may be required to undergo a preemployment physical examination that tests for and fails to reveal any evidence of hepatitis or tuberculosis.

(7) DISABILITY RETIREMENT.—This section does not change the basic requirements for determining eligibility for disability retirement benefits under the Florida Retirement System or any pension plan administered by this state or any political subdivision thereof, except to the extent of affecting the determination as to whether a member was disabled in the line of duty or was otherwise disabled.

History.—s. 2, ch. 95-285; s. 2, ch. 96-198; s. 25, ch. 97-95; s. 26, ch. 97-96.

112.1815 Firefighters, paramedics, emergency medical technicians, and law enforcement officers; special provisions for employment-related accidents and injuries.—

(1) The term "first responder" as used in this section means a law enforcement officer as defined in s. 943.10, a firefighter as defined in s. 633.102, or an emergency medical technician or paramedic as defined in s. 401.23 employed by state or local government. A volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is also considered a first responder of the state or local government for purposes of this section.

(2)(a) For the purpose of determining benefits under this section relating to employment-related accidents and injuries of first responders, the following shall apply:

1. An injury or disease caused by the exposure to a toxic substance is not an injury by accident arising out of employment unless there is a preponderance of the evidence establishing that exposure to the specific substance involved, at the levels to which the first responder was exposed, can cause the injury or disease sustained by the employee.

2. Any adverse result or complication caused by a smallpox vaccination of a first responder is deemed to be an injury by accident arising out of work performed in the course and scope of employment.

3. A mental or nervous injury involving a first responder and occurring as a manifestation of a compensable injury must be demonstrated by clear and convincing evidence. For a mental or nervous injury arising out of the employment unaccompanied by a physical injury involving a first responder, only medical benefits under s. 440.13 shall be payable for the mental or nervous injury. However, payment of indemnity as provided in s. 440.15 may not be made unless a physical injury arising out of injury as a first responder accompanies the mental or nervous injury. Benefits for a first responder are not subject to any limitation on temporary benefits under s. 440.093 or the 1-percent limitation on permanent psychiatric impairment benefits under s. 440.15(3)(c).

(b) In cases involving occupational disease, both causation and sufficient exposure to a specific harmful substance shown to be present in the workplace to support causation shall be proven by a preponderance of the evidence.

(3) Permanent total supplemental benefits received by a first responder whose employer does not participate in the social security program shall not terminate after the first responder attains the age of 62.

(4) For the purposes of this section, the term "occupational disease" means only a disease that arises out of employment as a first responder and is due to causes and conditions that are characteristic of and peculiar to a particular trade, occupation, process, or employment and excludes all ordinary diseases of life to which the general public is exposed, unless the incidence of the disease is substantially higher in the particular trade, occupation, process, or employment than for the general public.

History.—s. 1, ch. 2007-87; s. 116, ch. 2013-183.

112.182 "Firefighter rule" abolished.—

(1) A firefighter or properly identified law enforcement officer who lawfully enters upon the premises of another in the discharge of his or her duty occupies the status of an invitee. The common-law rule that such a firefighter or law enforcement officer occupies the status of a licensee is hereby abolished.

(2) It is not the intent of this section to increase or diminish the duty of care owed by property owners to invitees. Property owners shall be liable to invitees pursuant to this section only when the property owner negligently fails to maintain the premises in a reasonably safe condition or negligently fails to correct a dangerous condition of which the property owner either knew or should have known by the use of reasonable care or negligently fails to warn the invitee of a dangerous condition about which the property owner had, or should have had, knowledge greater than that of the invitee.

History.—s. 1, ch. 90-308; s. 693, ch. 95-147.

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—

(1) Whenever used in this section, the term:

(a) "Employer" means a state board, commission, department, division, bureau, or agency, or a county, municipality, or other political subdivision of the state, which employs, appoints, or otherwise engages the services of law enforcement, correctional, or correctional probation officers.

(b) "Law enforcement, correctional, or correctional probation officer" means any officer as defined in s. 943.10(14) or employee of the state or any political subdivision of the state, including any law enforcement officer, correctional officer, correctional probation officer, state attorney investigator, or public defender investigator, whose duties require such officer or employee to investigate, pursue, apprehend, arrest, transport, or maintain custody of persons who are charged with, suspected of committing, or convicted of a crime; and the term includes any member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices. The term also includes any full-time officer or employee of the state or any political subdivision of the state, certified pursuant to chapter 943, whose duties require such officer to serve process or to attend a session of a circuit or county court as bailiff.

(c) "Insurance" means insurance procured from a stock company or mutual company or association or exchange authorized to do business as an insurer in this state.

(d) "Fresh pursuit" means the pursuit of a person who has committed or is reasonably suspected of having committed a felony, misdemeanor, traffic infraction, or violation of a county or municipal ordinance. The term does not imply instant pursuit, but pursuit without unreasonable delay.

(2)(a) The sum of $50,000, as adjusted pursuant to paragraph (j), shall be paid as provided in this section when a law enforcement, correctional, or correctional probation officer, while engaged in the performance of the officer's law enforcement duties, is accidentally killed or receives accidental bodily injury which results in the loss of the officer's life, provided that such killing is not the result of suicide and that such bodily injury is not intentionally self-inflicted. Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

(b) The sum of $50,000, as adjusted under paragraph (j), shall be paid as provided in this section if a law enforcement, correctional, or correctional probation officer is accidentally killed as specified in paragraph (a) and the accidental death occurs:

1. As a result of the officer's response to fresh pursuit;
2. As a result of the officer's response to what is reasonably believed to be an emergency;
3. At the scene of a traffic accident to which the officer has responded; or
4. While the officer is enforcing what is reasonably believed to be a traffic law or ordinance.

This sum is in addition to any sum provided for in paragraph (a). Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

(c) If a law enforcement, correctional, or correctional probation officer, while engaged in the performance of the officer's law enforcement duties, is unlawfully and intentionally killed or dies as a result of such unlawful and intentional act, the sum of $150,000, as adjusted pursuant to paragraph (j), shall be paid as provided in this section. Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

(d) Such payments, pursuant to the provisions of paragraphs (a), (b), and (c), whether secured by insurance or not, shall be made to the beneficiary designated by such law enforcement, correctional, or correctional probation officer in writing, signed by the officer and delivered to the employer during the officer's lifetime. If no such designation is made, then it shall be paid to the officer's surviving child or children and spouse in equal portions, and if there is no surviving child or spouse, then to the officer's parent or parents. If a beneficiary is not designated and there is no surviving child, spouse, or parent, then it shall be paid to the officer's estate.

(e) Such payments, pursuant to the provisions of paragraphs (a), (b), and (c), are in addition to any workers' compensation or pension benefits and are exempt from the claims and demands of creditors of such law enforcement, correctional, or correctional probation officer.

(f) If a full-time law enforcement, correctional, or correctional probation officer who is certified pursuant to chapter 943 and employed by a state agency is killed in the line of duty while the officer is engaged in the performance of law enforcement duties or as a result of an assault against the officer under riot conditions:

1. The sum of $1,000 shall be paid, as provided for in paragraph (d), toward the funeral and burial expenses of such officer. Such benefits are in addition to any other benefits to which employee beneficiaries and dependents are

entitled under the Workers' Compensation Law or any other state or federal statutes; and

2. The officer's employing agency may pay up to $5,000 directly toward the venue expenses associated with the funeral and burial services of such officer.

(g) Any political subdivision of the state that employs a full-time law enforcement officer as defined in s. 943.10(1) or a full-time correctional officer as defined in s. 943.10(2) who is killed in the line of duty on or after July 1, 1993, as a result of an act of violence inflicted by another person while the officer is engaged in the performance of law enforcement duties or as a result of an assault against the officer under riot conditions shall pay the entire premium of the political subdivision's health insurance plan for the employee's surviving spouse until remarried, and for each dependent child of the employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if:

1. At the time of the employee's death, the child is dependent upon the employee for support; and

2. The surviving child continues to be dependent for support, or the surviving child is a full-time or part-time student and is dependent for support.

(h)1. Any employer who employs a full-time law enforcement, correctional, or correctional probation officer who, on or after January 1, 1995, suffers a catastrophic injury, as defined in s. 440.02, Florida Statutes 2002, in the line of duty shall pay the entire premium of the employer's health insurance plan for the injured employee, the injured employee's spouse, and for each dependent child of the injured employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if the child continues to be dependent for support, or the child is a full-time or part-time student and is dependent for support. The term "health insurance plan" does not include supplemental benefits that are not part of the basic group health insurance plan. If the injured employee subsequently dies, the employer shall continue to pay the entire health insurance premium for the surviving spouse until remarried, and for the dependent children, under the conditions outlined in this paragraph. However:

a. Health insurance benefits payable from any other source shall reduce benefits payable under this section.

b. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement to obtain health insurance coverage as provided under this paragraph. A person who violates this sub-subparagraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

c. In addition to any applicable criminal penalty, upon conviction for a violation as described in sub-subparagraph b., a law enforcement, correctional, or correctional probation officer or other beneficiary who receives or seeks to receive health insurance benefits under this paragraph shall forfeit the right to receive such health insurance benefits, and shall reimburse the employer for all benefits paid due to the fraud or other prohibited activity. For purposes of this sub-subparagraph, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

2. In order for the officer, spouse, and dependent children to be eligible for such insurance coverage, the injury must have occurred as the result of the officer's response to fresh pursuit, the officer's response to what is reasonably believed to be an emergency, or an unlawful act perpetrated by another. Except as otherwise provided herein, nothing in this paragraph shall be construed to limit health insurance coverage for which the officer, spouse, or dependent children may otherwise be eligible, except that a person who qualifies under this section shall not be eligible for the health insurance subsidy provided under chapter 121, chapter 175, or chapter 185.

(i) The Bureau of Crime Prevention and Training within the Department of Legal Affairs shall adopt rules necessary to implement paragraphs (a), (b), and (c).

(j) Any payments made pursuant to paragraph (a), paragraph (b), or paragraph (c) shall consist of the statutory amount adjusted to reflect price level changes since the effective date of this act. The Bureau of Crime Prevention and Training shall by rule adjust the statutory amount based on the Consumer Price Index for All Urban Consumers published by the United States Department of Labor. Adjustment shall be made July 1 of each year using the most recent month for which data are available at the time of the adjustment.

[1](3) If a law enforcement, correctional, or correctional probation officer is accidentally killed as specified in paragraph (2)(b) on or after June 22, 1990, or unlawfully and intentionally killed as specified in paragraph (2)(c) on or

after July 1, 1980, the state shall waive certain educational expenses that the child or spouse of the deceased officer incurs while obtaining a career certificate, an undergraduate education, or a postgraduate education. The amount waived by the state shall be an amount equal to the cost of tuition and matriculation and registration fees for a total of 120 credit hours. The child or spouse may attend a state career center, a Florida College System institution, or a state university. The child or spouse may attend any or all of the institutions specified in this subsection, on either a full-time or part-time basis. The benefits provided to a child under this subsection shall continue until the child's 25th birthday. The benefits provided to a spouse under this subsection must commence within 5 years after the death occurs, and entitlement thereto shall continue until the 10th anniversary of that death.

(a) Upon failure of any child or spouse benefited by the provisions of this subsection to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits shall be withdrawn as to the child or spouse and no further moneys may be expended for the child's or spouse's benefits so long as such failure or delinquency continues.

(b) Only a student in good standing in his or her respective institution may receive the benefits thereof.

(c) A child or spouse receiving benefits under this subsection must be enrolled according to the customary rules and requirements of the institution attended.

(4)(a) The employer of such law enforcement, correctional, or correctional probation officer is liable for the payment of the sums specified in this section and is deemed self-insured, unless it procures and maintains, or has already procured and maintained, insurance to secure such payments. Any such insurance may cover only the risks indicated in this section, in the amounts indicated in this section, or it may cover those risks and additional risks and may be in larger amounts. Any such insurance shall be placed by such employer only after public bid of such insurance coverage which coverage shall be awarded to the carrier making the lowest best bid.

(b) Payment of benefits to beneficiaries of state employees, or of the premiums to cover the risk, under the provisions of this section shall be paid from existing funds otherwise appropriated to the department employing the law enforcement, correctional, or correctional probation officers.

(5) The State Board of Education shall adopt rules and procedures, and the Board of Governors shall adopt regulations and procedures, as are appropriate and necessary to implement the educational benefits provisions of this section.

(6) Notwithstanding any provision of this section to the contrary, the death benefits provided in paragraphs (2)(c) and (g) shall also be applicable and paid in cases where an officer received bodily injury prior to July 1, 1993, and subsequently died on or after July 1, 1993, as a result of such in-line-of-duty injury attributable to an unlawful and intentional act, or an act of violence inflicted by another, or an assault on the officer under riot conditions. Payment of such benefits shall be in accordance with provisions of this section. Nothing in this provision shall be construed to limit death benefits for which those individuals listed in paragraph (2)(d) may otherwise be eligible.

History.—ss. 1, 2, ch. 67-408; ss. 1, 3, ch. 71-301; s. 52, ch. 79-40; s. 1, ch. 87-143; s. 2, ch. 89-22; s. 1, ch. 90-138; s. 1, ch. 92-59; s. 3, ch. 93-149; s. 2, ch. 94-171; s. 1404, ch. 95-147; s. 3, ch. 95-283; s. 3, ch. 96-198; s. 38, ch. 99-2; s. 1, ch. 2002-191; s. 5, ch. 2002-194; s. 1, ch. 2002-232; s. 9, ch. 2003-1; s. 46, ch. 2003-412; ss. 14, 15, ch. 2004-357; ss. 2, 5, 6, ch. 2005-100; s. 8, ch. 2007-217; s. 2, ch. 2010-78; s. 11, ch. 2013-25; ss. 12, 13, ch. 2014-17; s. 1, ch. 2015-163.

[1]**Note.**— As amended by s. 1, ch. 2002-191, as amended by s. 14, ch. 2004-357, as reenacted by s. 5, ch. 2005-100, as amended by s. 12, ch. 2014-17. For a description of multiple acts in the same session affecting a statutory provision, *see* preface to the *Florida Statutes*, "Statutory Construction." Subsection (3) was also amended by s. 1, ch. 2002-232, as amended by s. 9, ch. 2003-1, as amended by s. 15, ch. 2004-357, as reenacted by s. 6, ch. 2005-100, as amended by s. 13, ch. 2014-17, and that version reads:

(3) If a law enforcement, correctional, or correctional probation officer is accidentally killed as specified in paragraph (2)(b) on or after June 22, 1990, or unlawfully and intentionally killed as specified in paragraph (2)(c) on or after July 1, 1980, the state shall waive certain educational expenses that children of the deceased officer incur while obtaining a career certificate, an undergraduate education, or a graduate or postbaccalaureate professional degree. The amount waived by the state shall be an amount equal to the cost of tuition, matriculation, and other statutorily authorized fees for a total of 120 credit hours for a career certificate or an undergraduate education. For a child pursuing a graduate or postbaccalaureate professional degree, the amount waived shall equal the cost of matriculation and other statutorily authorized fees incurred while the child continues to fulfill the professional requirements associated with the graduate or postbaccalaureate professional degree program, and eligibility continues until the child's 29th birthday. The child may attend a state career center, a Florida College System institution, or a state university. The child may attend any or all of the institutions specified in this subsection, on either a full-time or part-time

basis. For a child pursuing a career certificate or an undergraduate education, the benefits provided under this subsection shall continue to the child until the child's 25th birthday. To be eligible for the benefits provided under this subsection for enrollment in a graduate or postbaccalaureate professional degree program, the child must be a state resident, as defined in s. 1009.21, at the time of enrollment.

(a) Upon failure of any child benefited by the provisions of this section to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits shall be withdrawn as to the child and no further moneys may be expended for the child's benefits so long as such failure or delinquency continues.

(b) Only a student in good standing in his or her respective institution may receive the benefits thereof.

(c) A child receiving benefits under this section must be enrolled according to the customary rules and requirements of the institution attended.

112.191 Firefighters; death benefits.—

(1) Whenever used in this act:

(a) The term "employer" means a state board, commission, department, division, bureau or agency, or a county, municipality, or other political subdivision of the state.

(b) The term "firefighter" means any full-time duly employed uniformed firefighter employed by an employer, whose primary duty is the prevention and extinguishing of fires, the protection of life and property therefrom, the enforcement of municipal, county, and state fire prevention codes, as well as the enforcement of any law pertaining to the prevention and control of fires, who is certified pursuant to s. 633.408 and who is a member of a duly constituted fire department of such employer or who is a volunteer firefighter.

(c) The term "insurance" means insurance procured from a stock company or mutual company or association or exchange authorized to do business as an insurer in this state.

(2)(a) The sum of $50,000, as adjusted pursuant to paragraph (i), shall be paid as provided in this section when a firefighter, while engaged in the performance of his or her firefighter duties, is accidentally killed or receives accidental bodily injury which subsequently results in the loss of the firefighter's life, provided that such killing is not the result of suicide and that such bodily injury is not intentionally self-inflicted. Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

(b) The sum of $50,000, as adjusted pursuant to paragraph (i), shall be paid as provided in this section if a firefighter is accidentally killed as specified in paragraph (a) and the accidental death occurs as a result of the firefighter's response to what is reasonably believed to be an emergency involving the protection of life or property or the firefighter's participation in a training exercise. This sum is in addition to any sum provided in paragraph (a). Notwithstanding any other provision of law, the amount payable under this subsection may not be less than the actual amount stated therein.

(c) If a firefighter, while engaged in the performance of his or her firefighter duties, is unlawfully and intentionally killed, is injured by an unlawful and intentional act of another person and dies as a result of such injury, dies as a result of a fire which has been determined to have been caused by an act of arson, or subsequently dies as a result of injuries sustained therefrom, the sum of $150,000, as adjusted pursuant to paragraph (i), shall be paid as provided in this section. Notwithstanding any other provision of law, the amount payable under this subsection may not be less than the actual amount stated therein.

(d) Such payments, pursuant to paragraphs (a), (b), and (c), whether secured by insurance or not, shall be made to the beneficiary designated by such firefighter in writing, signed by the firefighter and delivered to the employer during the firefighter's lifetime. If no such designation is made, then it shall be paid to the firefighter's surviving child or children and spouse in equal portions, and if there be no surviving child or spouse, then to the firefighter's parent or parents. If a beneficiary designation is not made and there is no surviving child, spouse, or parent, then it shall be paid to the firefighter's estate.

(e) Such payments, pursuant to the provisions of paragraphs (a), (b), and (c), shall be in addition to any workers' compensation or pension benefits and shall be exempt from the claims and demands of creditors of such firefighter.

(f) Any political subdivision of the state that employs a full-time firefighter who is killed in the line of duty on or after July 1, 1993, as a result of an act of violence inflicted by another person while the firefighter is engaged in the performance of firefighter duties, as a result of a fire which has been determined to have been caused by an act of

arson, or as a result of an assault against the firefighter under riot conditions shall pay the entire premium of the political subdivision's health insurance plan for the employee's surviving spouse until remarried, and for each dependent child of the employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if:

1. At the time of the employee's death, the child is dependent upon the employee for support; and
2. The surviving child continues to be dependent for support, or the surviving child is a full-time or part-time student and is dependent for support.

(g)1. Any employer who employs a full-time firefighter who, on or after January 1, 1995, suffers a catastrophic injury, as defined in s. 440.02, Florida Statutes 2002, in the line of duty shall pay the entire premium of the employer's health insurance plan for the injured employee, the injured employee's spouse, and for each dependent child of the injured employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if the child continues to be dependent for support, or the child is a full-time or part-time student and is dependent for support. The term "health insurance plan" does not include supplemental benefits that are not part of the basic group health insurance plan. If the injured employee subsequently dies, the employer shall continue to pay the entire health insurance premium for the surviving spouse until remarried, and for the dependent children, under the conditions outlined in this paragraph. However:

a. Health insurance benefits payable from any other source shall reduce benefits payable under this section.
b. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement to obtain health insurance coverage as provided under this paragraph. A person who violates this sub-subparagraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
c. In addition to any applicable criminal penalty, upon conviction for a violation as described in sub-subparagraph b., a firefighter or other beneficiary who receives or seeks to receive health insurance benefits under this paragraph shall forfeit the right to receive such health insurance benefits, and shall reimburse the employer for all benefits paid due to the fraud or other prohibited activity. For purposes of this sub-subparagraph, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

2. In order for the firefighter, spouse, and dependent children to be eligible for such insurance coverage, the injury must have occurred as the result of the firefighter's response to what is reasonably believed to be an emergency involving the protection of life or property, or an unlawful act perpetrated by another. Except as otherwise provided herein, nothing in this paragraph shall be construed to limit health insurance coverage for which the firefighter, spouse, or dependent children may otherwise be eligible, except that a person who qualifies for benefits under this section shall not be eligible for the health insurance subsidy provided under chapter 121, chapter 175, or chapter 185.

Notwithstanding any provision of this section to the contrary, the death benefits provided in paragraphs (b), (c), and (f) shall also be applicable and paid in cases where a firefighter received bodily injury prior to July 1, 1993, and subsequently died on or after July 1, 1993, as a result of such in-line-of-duty injury.

(h) The Division of the State Fire Marshal within the Department of Financial Services shall adopt rules necessary to implement this section.

(i) Any payments made pursuant to paragraph (a), paragraph (b), or paragraph (c) shall consist of the statutory amount adjusted to show price level changes in the Consumer Price Index for All Urban Consumers published by the United States Department of Labor since July 1, 2002. The Division of State Fire Marshal, using the most recent month for which Consumer Price Index data is available, shall, on June 15 of each year, calculate and publish on the division's Internet website the amount resulting from the adjustments to the statutory amounts. The adjusted statutory amounts shall be effective on July 1 of each year.

[1](3) If a firefighter is accidentally killed as specified in paragraph (2)(b) on or after June 22, 1990, or unlawfully and intentionally killed as specified in paragraph (2)(c), on or after July 1, 1980, the state shall waive certain educational expenses that the child or spouse of the deceased firefighter incurs while obtaining a career certificate, an undergraduate education, or a postgraduate education. The amount waived by the state shall be an amount equal to

the cost of tuition and matriculation and registration fees for a total of 120 credit hours. The child or spouse may attend a state career center, a Florida College System institution, or a state university. The child or spouse may attend any or all of the institutions specified in this subsection, on either a full-time or part-time basis. The benefits provided to a child under this subsection shall continue until the child's 25th birthday. The benefits provided to a spouse under this subsection must commence within 5 years after the death occurs, and entitlement thereto shall continue until the 10th anniversary of that death.

(a) Upon failure of any child or spouse benefited by the provisions of this subsection to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits thereof shall be withdrawn as to the child or spouse and no further moneys expended for the child's or spouse's benefits so long as such failure or delinquency continues.

(b) Only students in good standing in their respective institutions shall receive the benefits thereof.

(c) A child or spouse receiving benefits under this subsection must be enrolled according to the customary rules and requirements of the institution attended.

(4)(a) The employer of such firefighter shall be liable for the payment of said sums specified in this section and shall be deemed self-insured, unless it procures and maintains, or has already procured and maintained, insurance to secure such payments. Any such insurance may cover only the risks indicated in this section, in the amounts indicated in this section, or it may cover those risks and additional risks and may be in larger amounts. Any such insurance shall be placed by such employer only after public bid of such insurance coverage which coverage shall be awarded to the carrier making the lowest best bid.

(b) Payment of benefits to beneficiaries of state employees, or of the premiums to cover the risk, under the provisions of this section, shall be paid from existing funds otherwise appropriated for the department.

(5) The State Board of Education shall adopt rules and procedures, and the Board of Governors shall adopt regulations and procedures, as are appropriate and necessary to implement the educational benefits provisions of this section.

History.—ss. 1, 2, ch. 67-443; ss. 1, 2, ch. 69-35; s. 7, ch. 69-353; ss. 2, 3, ch. 71-301; s. 1, ch. 78-7; s. 53, ch. 79-40; s. 3, ch. 90-138; s. 2, ch. 92-59; s. 1, ch. 93-149; s. 3, ch. 94-171; s. 1405, ch. 95-147; s. 4, ch. 96-198; s. 39, ch. 99-2; s. 2, ch. 2002-191; s. 6, ch. 2002-194; s. 2, ch. 2002-232; s. 10, ch. 2003-1; s. 125, ch. 2003-261; s. 47, ch. 2003-412; s. 6, ch. 2004-5; ss. 16, 17, ch. 2004-357; s. 9, ch. 2007-217; s. 3, ch. 2010-78; s. 5, ch. 2010-179; ss. 91, 117, ch. 2013-183; ss. 14, 15, ch. 2014-17.

[1]**Note.**— As amended by s. 2, ch. 2002-191, as amended by s. 16, ch. 2004-357, as amended by s. 14, ch. 2014-17. For a description of multiple acts in the same session affecting a statutory provision, *see* preface to the *Florida Statutes*, "Statutory Construction." Subsection (3) was also amended by s. 2, ch. 2002-232, as amended by s. 10, ch. 2003-1, as amended by s. 17, ch. 2004-357, as amended by s. 15, ch. 2014-17, and that version reads:

(3) If a firefighter is accidentally killed as specified in paragraph (2)(b) on or after June 22, 1990, or unlawfully and intentionally killed as specified in paragraph (2)(c), on or after July 1, 1980, the state shall waive certain educational expenses that children of the deceased firefighter incur while obtaining a career certificate, an undergraduate education, or a graduate or postbaccalaureate professional degree. The amount waived by the state shall be an amount equal to the cost of tuition, matriculation, and other statutorily authorized fees for a total of 120 credit hours for a career certificate or an undergraduate education. For a child pursuing a graduate or postbaccalaureate professional degree, the amount waived shall equal the cost of matriculation and other statutorily authorized fees incurred while the child continues to fulfill the professional requirements associated with the graduate or postbaccalaureate professional degree program, and eligibility continues until the child's 29th birthday. The child may attend a state career center, a Florida College System institution, or a state university. The child may attend any or all of the institutions specified in this subsection, on either a full-time or part-time basis. For a child pursuing a career certificate or an undergraduate education, the benefits provided under this subsection shall continue to such a child until the child's 25th birthday. To be eligible for the benefits provided under this subsection for enrollment in a graduate or postbaccalaureate professional degree program, the child must be a state resident, as defined in s. 1009.21, at the time of enrollment.

(a) Upon failure of any child benefited by the provisions of this section to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits thereof shall be withdrawn as to the child and no further moneys expended for the child's benefits so long as such failure or delinquency continues.

(b) Only students in good standing in their respective institutions shall receive the benefits thereof.

(c) All children receiving benefits under this section shall be enrolled according to the customary rules and requirements of the institution attended.

112.1913 Effect of ch. 2003-412.—The amendments to ss. 440.02 and 440.15 which are made by this act shall not be construed to affect any determination of disability under s. 112.18, s. 112.181, or s. 112.19.

History.—s. 48, ch. 2003-412.

112.1915 Teachers and school administrators; death benefits.—Any other provision of law to the contrary notwithstanding:

(1) As used in this section, the term:

(a) "Employer" means the district school board.

(b) "Teacher" means any instructional staff personnel as described in s. 1012.01(2).

(c) "School administrator" means any school administrator as described in s. 1012.01(3).

(d) "Teaching duties" means the actual performance of duties required by a teacher's employment during his or her regularly scheduled working hours or irregular working hours as required or assigned by the employer.

(e) "School administrator duties" means the actual performance of duties required by a school administrator's employment during his or her regularly scheduled working hours or irregular working hours as required or assigned by the employer.

(f) "Beneficiary" means the person designated by the teacher or school administrator in writing, signed by the teacher or school administrator and delivered to the employer during the teacher's or school administrator's lifetime. If a beneficiary is not designated, the beneficiary is the teacher's or school administrator's estate.

(2) The benefits described in subsection (3) shall be provided when a teacher or school administrator is killed or injured and dies as a result of an unlawful and intentional act, provided that such killing or injury and death is the result of an act of violence inflicted by another person, and provided that:

(a) Such act is inflicted upon the teacher or school administrator while he or she is engaged in the performance of teaching duties or school administrator duties; or

(b) The motivation for such act is related in whole or in part to the fact that the individual is a teacher or school administrator.

(3) If a teacher or school administrator dies under the conditions in subsection (2), benefits shall be provided as follows:

(a) The sum of $75,000 shall be paid, whether secured by insurance or not, to the beneficiary. The payment shall be in addition to any other insurance, workers' compensation, or pension benefits or other benefits that teacher or school administrator beneficiaries and dependents are entitled to under state or federal statutes and shall be exempt from the claims and demands of creditors of such teacher or school administrator, pursuant to s. 732.402(2)(d).

(b) The sum of $1,000 shall be paid, whether secured by insurance or not, to the beneficiary toward the funeral and burial expenses of such teacher or school administrator. The payment shall be in addition to any workers' compensation or pension benefits or other benefits that teacher or school administrator beneficiaries and dependents are entitled to under state or federal statutes and shall be exempt from the claims and demands of creditors of such teacher or school administrator, pursuant to s. 732.402(2)(d).

(c) Payment of the entire health insurance premium for the school district's health insurance plan shall continue for the teacher's or school administrator's surviving spouse until remarried, and for each dependent child of the teacher or school administrator until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if:

1. At the time of the teacher's or school administrator's death, the child is dependent upon the teacher or school administrator for support; and

2. The surviving child continues to be dependent for support, or the surviving child is a full-time or part-time student and is dependent for support.

The district school board that employed the teacher or school administrator who is killed shall pay the health insurance premiums. The district school board shall report annually to the Department of Education the amount of premiums paid pursuant to this paragraph. The Department of Education shall provide reimbursement to the district for the premium payments.

(d) Waiver of certain educational expenses which children of the deceased teacher or school administrator incur while obtaining a career certificate or an undergraduate education shall be according to conditions set forth in this paragraph. The amount waived by the state shall be an amount equal to the cost of tuition and matriculation and registration fees for a total of 120 credit hours at a university. The child may attend a state career center, a Florida College System institution, or a state university. The child may attend any or all of the institutions specified in this paragraph, on either a full-time or part-time basis. The benefits provided under this paragraph shall continue to the child until the child's 25th birthday.

1. Upon failure of any child benefited by the provisions of this paragraph to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits shall be withdrawn as to the child and no further moneys may be expended for the child's benefits so long as such failure or delinquency continues.

2. A student who becomes eligible for benefits under the provisions of this paragraph while enrolled in an institution must be in good standing with the institution to receive the benefits provided herein.

3. A child receiving benefits under this paragraph must be enrolled according to the customary rules and requirements of the institution attended.

(4) State funding shall be provided annually in the General Appropriations Act.

History.—ss. 2, 5, ch. 2001-180; s. 893, ch. 2002-387; s. 24, ch. 2004-295; s. 18, ch. 2004-357; s. 34, ch. 2012-116; s. 16, ch. 2014-17.

112.193 Law enforcement, correctional, and correctional probation officers' commemorative service awards.—

(1) For the purposes of this section, the term:

(a) "Employer" means a state board, commission, department, division, bureau, or agency or a county or municipality.

(b) "Law enforcement, correctional, or correctional probation officer" means any full-time, part-time, or auxiliary officer as defined in s. 943.10(14).

(2) Each employer that employs or appoints law enforcement, correctional, or correctional probation officers may present to each such employee who retires under any provision of a state or municipal retirement system, including medical disability retirement, or who is eligible to retire under any such provision but, instead, resigns from one employer to accept an elected public office, one complete uniform including the badge worn by that officer, the officer's service handgun, if one was issued as part of the officer's equipment, and an identification card clearly marked "RETIRED."

(3) Upon the death of a law enforcement, correctional, or correctional probation officer, the employer may present to the spouse or other beneficiary of the officer, upon request, one complete uniform, including the badge worn by the officer. However, if a law enforcement, correctional, or correctional probation officer is killed in the line of duty, the employer may present, upon request, to the spouse or other beneficiary of the officer the officer's service-issued handgun, if one was issued as part of the officer's equipment. If the employer is not in possession of the service-issued handgun, the employer may, within its discretion, and upon written request of the spouse or other beneficiary, present a similar handgun. The provisions of this section shall also apply in that instance to a law enforcement or correctional officer who died before May 1, 1993. In addition, the officer's service handgun may be presented by the employer for any such officer who was killed in the line of duty prior to this act becoming a law.

(4) Each uniform, badge, service handgun, and identification card presented under this section is to commemorate prior service and must be used only in such manner as the employer prescribes by rule. The provisions of this section shall also apply in that instance to a law enforcement officer who died before May 1, 1993.

History.—s. 1, ch. 79-335; s. 3, ch. 89-22; s. 1, ch. 93-32; s. 4, ch. 93-149.

112.194 Law enforcement and correctional officers' Medal of Valor.—

(1) Any state board, commission, department, division, bureau, or agency, or any county or municipality that employs or appoints law enforcement officers or correctional officers, as defined in s. 943.10(14), may establish an award program to award a Medal of Valor to any such officer whose actions are extraordinary and expose the officer to peril beyond the call of duty.

(2) The Medal of Valor may include, but is not limited to, a medal authorized to be worn on the officer's uniform during formal occasions and a commendation bar to be worn on the uniform during normal duty. The amount of funds that may be expended to provide a Medal of Valor shall not exceed $250.

(3) Upon the death of such a law enforcement officer or correctional officer, the employer may present the Medal of Valor posthumously to the officer's closest living relative.

History.—s. 1, ch. 93-1.

112.21 Tax-sheltered annuities or custodial accounts for employees of governmental agencies.— A governmental agency, which means any state, county, local, or municipal governmental entity or any unit of government created or established by law, which is qualified under the United States Internal Revenue Code may provide, by written agreement between any such agency and any employee, to reduce the contract salary payable to such employee and, in consideration thereof, to pay an amount equal to the amount of such reduction to an insurance company licensed to do business in Florida; to a credit union, bank, or savings and loan association qualified to do business in Florida; or to a custodial account to be invested in regulated investment company stock to be held in such custodial account, as selected by the employee or employees, notwithstanding any other provision of law, with the concurrence of the employing agency, as premiums on an annuity contract issued in the name of such employee or as payment into a qualified custodial account established pursuant to s. 403(b) of the United States Internal Revenue Code.

(1) Any such annuity contract or custodial account shall be in such form, and be based upon such terms, as will qualify the payments thereon for tax deferment under the United States Internal Revenue Code. Such insurance annuity, savings, or investment products shall be underwritten and offered, in compliance with the applicable federal and state laws and regulations, by persons who are duly authorized by applicable state and federal authorities. All records identifying individual participants in any contract or account under this section and their personal account activities shall be confidential and are exempt from the provisions of s. 119.07(1).

(2) The amount of such reduction shall not exceed the amount excludable from income under s. 403(b) of the United States Internal Revenue Code and amendments and successor provisions thereto and shall be considered a part of the employee's salary for all purposes other than federal income taxation.

(3) The purchase of such tax-sheltered annuity or other investment qualified under the United States Internal Revenue Code and not prohibited under the laws of this state for an employee shall impose no liability or responsibility whatsoever on the employing agency except to show that the payments have been remitted for the purposes for which deducted.

History.—s. 1, ch. 74-157; s. 1, ch. 76-78; s. 2, ch. 77-295; s. 1, ch. 87-7; s. 27, ch. 90-360; s. 34, ch. 96-406.

112.215 Government employees; deferred compensation program.—

(1) This section shall be known and may be cited as the "Government Employees' Deferred Compensation Plan Act."

(2) For the purposes of this section, the term "employee" means any person, whether appointed, elected, or under contract, providing services for the state; any state agency or county or other political subdivision of the state; any municipality; any state university board of trustees; or any constitutional county officer under s. 1(d), Art. VIII of the State Constitution for which compensation or statutory fees are paid.

(3) In accordance with a plan of deferred compensation which has been approved as herein provided, the state or any state agency, county, municipality, other political subdivision, or constitutional county officer may, by contract or a collective bargaining agreement, agree with any employee to defer all or any portion of that employee's otherwise payable compensation and, pursuant to the terms of such approved plan and in such proportions as may be designated or directed under that plan, place such deferred compensation in savings accounts or use the same to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or such other investment products as may have been approved for the purposes of carrying out the objectives of such plan. Such insurance, annuity, savings, or investment products shall be underwritten and offered in compliance with the applicable federal and state laws and regulations by persons who are duly authorized by applicable state and federal authorities.

(4)(a) The Chief Financial Officer, with the approval of the State Board of Administration, shall establish such plan or plans of deferred compensation for state employees and may include persons employed by a state university as defined in s. 1000.21, a special district as defined in s. 189.012, or a water management district as defined in s. 189.012, including all such investment vehicles or products incident thereto, as may be available through, or offered by, qualified companies or persons, and may approve one or more such plans for implementation by and on behalf of the state and its agencies and employees.

(b) If the Chief Financial Officer deems it advisable, he or she shall have the power, with the approval of the State Board of Administration, to create a trust or other special funds for the segregation of funds or assets resulting from compensation deferred at the request of employees of the state or its agencies and for the administration of such program.

(c) The Chief Financial Officer, with the approval of the State Board of Administration, may delegate responsibility for administration of the plan to a person the Chief Financial Officer determines to be qualified, compensate such person, and, directly or through such person or pursuant to a collective bargaining agreement, contract with a private corporation or institution to provide such services as may be part of any such plan or as may be deemed necessary or proper by the Chief Financial Officer or such person, including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, asset purchase, control, and safekeeping, and direct disbursement of funds to employees or other beneficiaries. The Chief Financial Officer may authorize a person, private corporation, or institution to make direct disbursement of funds under the plan to an employee or other beneficiary.

(d) In accordance with such approved plan, and upon contract or agreement with an eligible employee, deferrals of compensation may be accomplished by payroll deductions made by the appropriate officer or officers of the state, with such funds being thereafter held and administered in accordance with the plan.

(e) The administrative costs of the deferred compensation plan must be wholly or partially self-funded. Fees for such self-funding of the plan shall be paid by investment providers and may be recouped from their respective plan participants. Such fees shall be deposited in the Deferred Compensation Trust Fund.

(5) Any county, municipality, or other political subdivision of the state may by ordinance, and any constitutional county officer under s. 1(d), Art. VIII of the State Constitution of 1968 may by contract agreement or other documentation constituting approval, adopt and establish for itself and its employees a deferred compensation program. The ordinance shall designate an appropriate official of the county, municipality, or political subdivision to approve and administer a deferred compensation plan or otherwise provide for such approval and administration. The ordinance shall also designate a public official or body to make the determinations provided for in paragraph (6)(b). If a constitutional county officer elects to adopt and establish for that office and its employees a deferred compensation program, the constitutional county officer shall be the appropriate official to make the determinations provided for in this subsection and in paragraph (6)(b).

(6)(a) No deferred compensation plan of the state shall become effective until approved by the State Board of Administration and the Chief Financial Officer is satisfied by opinion from such federal agency or agencies as may be deemed necessary that the compensation deferred thereunder and/or the investment products purchased pursuant to the plan will not be included in the employee's taxable income under federal or state law until it is actually received by such employee under the terms of the plan, and that such compensation will nonetheless be deemed compensation at the time of deferral for the purposes of social security coverage, for the purposes of the state retirement system, and for any other retirement, pension, or benefit program established by law.

(b) No deferred compensation plan of a county, municipality, other political subdivision, or constitutional county officer shall become effective until the appropriate official or body designated under subsection (5) is satisfied by opinion from such federal agency or agencies as may be deemed necessary that the compensation deferred thereunder and/or the investment products purchased pursuant to the plan will not be included in the employee's taxable income under federal or state law until it is actually received by such employee under the terms of the plan, and that such compensation will nonetheless be deemed compensation at the time of deferral for the purposes of social security coverage, for the purposes of the retirement system of the appropriate county, municipality, political subdivision, or constitutional county officer, and for any other retirement, pension, or benefit program established by law.

(7) The deferred compensation programs authorized by this section, and any plan approved and adopted as herein provided, shall exist and serve in addition to any other retirement, pension, or benefit systems established by the state or its agencies, counties, municipalities, other political subdivisions, or constitutional county officers and shall not supersede, make inoperative, or reduce any benefits provided by the Florida Retirement System or by another retirement, pension, or benefit program established by law. All records identifying individual participants in any plan under this section and their personal account activities shall be confidential and are exempt from the provisions of s. 119.07(1).

(8)(a) There is created a Deferred Compensation Advisory Council composed of seven members.

1. One member shall be appointed by the Speaker of the House of Representatives and the President of the Senate jointly and shall be an employee of the legislative branch.

2. One member shall be appointed by the Chief Justice of the Supreme Court and shall be an employee of the judicial branch.

3. One member shall be appointed by the chair of the Public Employees Relations Commission and shall be a nonexempt public employee.

4. The remaining four members shall be employed by the executive branch and shall be appointed as follows:

a. One member shall be appointed by the Chancellor of the State University System and shall be an employee of the university system.

b. One member shall be appointed by the Chief Financial Officer and shall be an employee of the Chief Financial Officer.

c. One member shall be appointed by the Governor and shall be an employee of the executive branch.

d. One member shall be appointed by the Executive Director of the State Board of Administration and shall be an employee of the State Board of Administration.

(b) Each member shall serve for a term of 4 years from the date of appointment, except that a vacancy shall be filled by appointment for the remainder of the term.

(c) Members shall elect a chair annually.

(d) The council shall meet at the call of its chair, at the request of a majority of its membership, or at the request of the Chief Financial Officer, but not less than twice a year. The business of the council shall be presented to the council in the form of an agenda. The agenda shall be set by the Chief Financial Officer and shall include items of business requested by the council members.

(e) A majority of the members shall constitute a quorum, and action by a majority of a quorum shall be official.

(f) The council shall make a report of each meeting to the Chief Financial Officer, which shall show the names of the members present and shall include a record of its discussions, recommendations, and actions taken. The Chief Financial Officer shall keep the records of the proceedings of each meeting on file and shall make the records available to any interested person or group.

(g) Members of the council shall serve without compensation but shall be entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061.

(h) The advisory council shall provide assistance and recommendations to the Chief Financial Officer relating to the provisions of the plan, the insurance or investment options to be offered under the plan, and any other contracts or appointments deemed necessary by the council and the Chief Financial Officer to carry out the provisions of this act. The Chief Financial Officer shall inform the council of the manner in which each council recommendation is being addressed. The Chief Financial Officer shall provide the council, at least annually, a report on the status of the deferred compensation program, including, but not limited to, information on participant enrollment, amount of compensation deferred, total plan assets, product provider performance, and participant satisfaction with the program.

(9) The purchase of any insurance contract or annuity or the investment in another investment option under any plan of deferred compensation provided for in the United States Internal Revenue Code and not prohibited under the laws of this state for an employee shall impose no liability or responsibility whatsoever on the state, county, municipality, other political subdivision, or constitutional county officer, except to show that the payments have been remitted for the purposes for which the compensation has been deferred.

(10)(a) The moneys, pensions, annuities, or other benefits accrued or accruing to any person under the provisions of any plan providing for the deferral of compensation and the accumulated contributions and the cash and securities in the funds created thereunder are hereby exempt from any state, county, or municipal tax. They shall not be subject to execution or attachment or to any legal process whatsoever by a creditor of the employee and shall be unassignable by the employee.

(b)1. There is created in the State Treasury the Deferred Compensation Trust Fund, through which the Chief Financial Officer as trustee shall hold moneys, pensions, annuities, or other benefits accrued or accruing under and pursuant to 26 U.S.C. s. 457 and the deferred compensation plan provided for therein and adopted by this state; and

a. All amounts of compensation deferred thereunder;

b. All property and rights purchased with such amounts; and

c. All income attributable to such amounts, property, or rights.

2. Notwithstanding the mandates of 26 U.S.C. s. 457(b)(6), all of the assets specified in subparagraph 1. shall be held in trust for the exclusive benefit of participants and their beneficiaries as mandated by 26 U.S.C. s. 457(g)(1).

(11) With respect to any funds held pursuant to a deferred compensation plan, any investment option provider that is a bank or savings association and that provides time deposit accounts and certificates of deposit as an investment product to the plan participants may, with the approval of the State Board of Administration for providers in the state plan, or with the approval of the appropriate official or body designated under subsection (5) for a plan of a county, municipality, other political subdivision, or constitutional county officer, be exempt from the provisions of chapter 280 requiring it to be a qualified public depository, provided:

(a) The bank or savings association shall, to the extent that the time deposit accounts or certificates of deposit are not insured by the Federal Deposit Insurance Corporation, deposit or issue collateral with the Chief Financial Officer for all state funds held by it under a deferred compensation plan, or with such other appropriate official for all public funds held by it under a deferred compensation plan of a county, municipality, other political subdivision, or constitutional county officer, in an amount which equals at least 150 percent of all uninsured deferred compensation funds then held.

(b) Said collateral shall be of the kind permitted by s. 280.13 and shall be pledged in the manner provided for by the applicable provisions of chapter 280.

The Chief Financial Officer shall have all the applicable powers provided in ss. 280.04, 280.05, and 280.08 relating to the sale or other disposition of the pledged collateral.

(12) The Chief Financial Officer may adopt any rule necessary to administer and implement this act with respect to deferred compensation plans for state employees and persons employed by a state university as defined in s. 1000.21, a special district as defined in s. 189.012, or a water management district as defined in s. 189.012.

(13) When permitted by federal law, the plan administrator may provide for a pretax trustee-to-trustee transfer of amounts in a participant's deferred compensation account for the purchase of prior service credit in a public sector retirement system.

(14) This subsection may not impair an existing contract. In each county that has one or more constitutional county officers, the board of county commissioners and the constitutional county officers shall negotiate a joint deferred compensation program for all their respective employees under s. 163.01. If all parties to the negotiation cannot agree upon a joint deferred compensation program, the provisions of subsection (5) apply.

History.—s. 1, ch. 75-295; s. 1, ch. 76-279; s. 1, ch. 82-46; s. 1, ch. 83-43; s. 2, ch. 87-7; ss. 1, 3, 4, ch. 87-35; s. 1, ch. 87-138; s. 1, ch. 89-123; s. 28, ch. 90-360; s. 5, ch. 91-429; s. 694, ch. 95-147; s. 2, ch. 96-216; s. 35, ch. 96-406; s. 1, ch. 97-8; s. 40, ch. 99-2; s. 2, ch. 99-159; s. 40, ch. 2001-43; s. 2, ch. 2001-265; s. 126, ch. 2003-261; ss. 7, 8, ch. 2003-399; s. 3, ch. 2004-41; s. 8, ch. 2004-390; s. 3, ch. 2016-132.

112.217 Department of Highway Safety and Motor Vehicles; employees' benefit fund.—The Department of Highway Safety and Motor Vehicles is authorized to adopt rules creating and providing for the operation of an employees' benefit fund for employees of the Department of Highway Safety and Motor Vehicles. The proceeds of the vending machines located in buildings occupied and used by the department, or such portions thereof as the

department by rule may provide, shall be paid into such fund to be used for such benefits and purposes as the department by rule may provide.

History.—s. 1, ch. 81-37.

112.218 Department of Highway Safety and Motor Vehicles personnel files; fees for copies.—The Department of Highway Safety and Motor Vehicles is authorized to charge the following fees for copies of its personnel files:

(1) Copies, per page. . . . . $0.50.

(2) Certified copies, per page. . . . . $1.00.

Fees collected pursuant to this section shall be deposited in the General Revenue Fund.

History.—s. 1, ch. 82-130.

PART II
INTERCHANGE OF PERSONNEL BETWEEN GOVERNMENTS

112.24 Intergovernmental interchange of public employees.
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112.24 Intergovernmental interchange of public employees.—To encourage economical and effective utilization of public employees in this state, the temporary assignment of employees among agencies of government, both state and local, and including school districts and public institutions of higher education is authorized under terms and conditions set forth in this section. State agencies, municipalities, and political subdivisions are authorized to enter into employee interchange agreements with other state agencies, the Federal Government, another state, a municipality, or a political subdivision including a school district, or with a public institution of higher education. State agencies are also authorized to enter into employee interchange agreements with private institutions of higher education and other nonprofit organizations under the terms and conditions provided in this section. In addition, the Governor or the Governor and Cabinet may enter into employee interchange agreements with a state agency, the Federal Government, another state, a municipality, or a political subdivision including a school district, or with a public institution of higher learning to fill, subject to the requirements of chapter 20, appointive offices which are within the executive branch of government and which are filled by appointment by the Governor or the Governor and Cabinet. Under no circumstances shall employee interchange agreements be utilized for the purpose of assigning individuals to participate in political campaigns. Duties and responsibilities of interchange employees shall be limited to the mission and goals of the agencies of government.

(1) Details of an employee interchange program shall be the subject of an agreement, which may be extended or modified, between a sending party and a receiving party. State agencies shall report such agreements and any extensions or modifications thereto to the Department of Management Services.

(2) The period of an individual's assignment or detail under an employee interchange program shall not exceed 2 years. Upon agreement of the sending party and the receiving party and under the same or modified terms, an assignment or detail of 2 years may be extended by 3 months. However, agreements relating to faculty members of the State University System may be extended biennially upon approval by the Department of Management Services. If the appointing agency is the Governor or the Governor and Cabinet, the period of an individual's assignment or detail under an employee interchange program shall not exceed 2 years plus an extension of 3 months or the number of years left in the term of office of the Governor, whichever is less.

(3) Salary, leave, travel and transportation, and reimbursements for an employee of a sending party that is participating in an interchange program shall be handled as follows:

(a) An employee of a sending party who is participating in an interchange agreement may be considered as on detail to regular work assignments of the sending party or in a leave status from the sending party except that the receiving agency shall pay the salary and benefits of such employee during the time, in excess of 1 week, that the employee is working for the receiving agency. However, an employee of a sending party who is participating in an interchange agreement pursuant to s. 10, chapter 91-429, Laws of Florida, shall be considered as on detail to regular work assignments of the sending party, and the sending party shall reimburse the receiving agency for the salary and benefits and expenses of such employee and any other direct costs of conducting the inspections during the time the employee is working for the receiving agency.

1. If on detail, an employee shall receive the same salary and benefits as if he or she were not on detail and shall remain the employee of the sending party for all purposes except that supervision during the period of detail may be governed by the interchange agreement.

2. If on leave, an employee shall have the same rights, benefits, and obligations as other employees in a leave status subject to exceptions provided in rules for state employees issued by the department or the rules or other decisions of the governing body of the municipality or political subdivision.

(b) The assignment of an employee of a state agency on detail or on leave of absence may be made without reimbursement by the receiving party for the travel and transportation expenses to or from the place of the assignment or for the pay and benefits, or a part thereof, of the employee during the assignment.

(c) If the rate of pay for an employee of an agency of the state on temporary assignment or on leave of absence is less than the rate of pay he or she would have received had the employee continued in his or her regular position, such employee is entitled to receive supplemental pay from the sending party in an amount equal to such difference.

(d) Any employee who participates in an exchange under the terms of this section who suffers disability or death as a result of personal injury arising out of and in the course of an exchange, or sustained in performance of duties in connection therewith, shall be treated, for the purposes of the sending party's employee compensation program, as an employee who sustained injury in the performance of duty, but shall not receive benefits under such program for any period for which the employee is entitled to, and elects to receive, similar benefits under the receiving party's employee compensation program.

(e) A sending party in this state may, in accordance with the travel regulations of such party, pay the travel expenses of an employee who is assigned to a receiving party on either detail or leave basis, but shall not pay the travel expenses of such an employee incurred in connection with work assignments at the receiving party. If the assignment or detail will exceed 8 months, travel expenses may include expenses to transport immediate family, household goods, and personal effects to and from the location of the receiving party. If the period of assignment is 3 months or less, the sending party may pay a per diem allowance to the employee on assignment or detail.

(4)(a) When any agency, municipality, or political subdivision of this state acts as a receiving party, an employee of the sending party who is assigned under authority of this section may be given appointments by the receiving party covering the periods of such assignments, with compensation to be paid from the receiving party's funds, or without compensation, or be considered to be on detail to the receiving party.

(b) Appointments of persons so assigned may be made without regard to the laws or regulations governing the selection of employees of the receiving party.

(c) During the period of an assignment, the employee who is detailed to the receiving party shall not by virtue of such detail be considered an employee of the receiving party, except as provided in paragraph (d), nor shall the employee be paid a wage or salary by the receiving party. The supervision of an employee during the period of the detail may be governed by agreement between the sending party and the receiving party. A detail of an employee to a state agency may be made with or without reimbursement to the sending party by the receiving party for the pay and benefits, or a part thereof, of the employee during the period of the detail.

(d) If the sending party of an employee assigned to an agency, municipality, or political subdivision of this state fails to continue making the employer's contribution to the retirement, life insurance, and health benefit plans for that

employee, the receiving party of this state may make the employer's contribution covering the period of the assignment or any part thereof.

(e) Any employee of a sending party assigned in this state who suffers disability or death as a result of personal injury arising out of and in the course of such assignment, or sustained in the performance of duties in connection therewith, shall be treated for the purpose of the receiving party's employee compensation program, as an employee who has sustained injury in the performance of duty, but shall not receive benefits under such program for any period for which he or she elects to receive similar benefits as an employee under the sending party's employee compensation program.

(f) A receiving party in this state may, in accordance with the travel regulations of such party, pay travel expenses of persons assigned thereto during the period of such assignments on the same basis as if they were regular employees of the receiving party.

(5) An agency may enter into agreements with private institutions of higher education in this state as the sending or receiving party as specified in subsections (3) and (4).

[1](6) For the 2017-2018 fiscal year only, the assignment of an employee of a state agency as provided in this section may be made if recommended by the Governor or Chief Justice, as appropriate, and approved by the chairs of the legislative appropriations committees. Such actions shall be deemed approved if neither chair provides written notice of objection within 14 days after receiving notice of the action pursuant to s. 216.177. This subsection expires July 1, 2018.

History.—s. 149, ch. 79-190; s. 1, ch. 85-1; s. 2, ch. 88-557; s. 1, ch. 89-315; s. 19, ch. 89-367; s. 43, ch. 92-279; s. 55, ch. 92-326; s. 695, ch. 95-147; s. 33, ch. 96-399; s. 2, ch. 98-331; s. 14, ch. 2008-153; s. 50, ch. 2009-82; s. 57, ch. 2010-153; s. 61, ch. 2011-47; s. 40, ch. 2012-119; s. 39, ch. 2013-41; s. 53, ch. 2014-53; s. 75, ch. 2015-222; s. 114, ch. 2016-62; s. 53, ch. 2017-71.

[1]**Note.**—Section 53, ch. 2017-71, amended subsection (6) "[i]n order to implement appropriations for salaries and benefits in the 2017-2018 General Appropriations Act."

112.25 Declaration of policy.—The state recognizes that intergovernmental cooperation is an essential factor in resolving problems affecting this state and that the interchange of personnel between and among governmental agencies at the same or different levels of government is a significant factor in achieving such cooperation.

History.—s. 1, ch. 65-524.

112.26 Definitions.—For the purposes of this part of chapter 112 the following words and phrases have the meanings ascribed to them in this section.

(1) "Sending agency" means any department or agency of the federal government or a state government which sends any employee thereof to another government agency under this part.

(2) "Receiving agency" means any department or agency of the federal government or a state government which receives an employee of another government under this part.

History.—s. 2, ch. 65-524.

112.27 Authority to interchange employees.—

(1) Any department, agency, or instrumentality of the state is authorized to participate in a program of interchange of employees with departments, agencies, or instrumentalities of the state, the Federal Government, or another state, as a sending or receiving agency.

(2) The period of individual assignment or detail under an interchange program shall not exceed 12 months, nor shall any person be assigned or detailed for more than 12 months during any 36-month period. Details relating to any matter covered in this part may be the subject of an agreement between the sending and receiving agencies. Elected officials shall not be assigned from a sending agency nor detailed to a receiving agency.

History.—s. 3, ch. 65-524; s. 3, ch. 98-331.

112.28 Status of employees of this state.—

(1) Employees of a sending agency participating in an exchange of personnel as authorized in s. 112.27 may be considered during such participation to be on detail to regular work assignments of the sending agency.

(2) Employees who are on detail shall be entitled to the same salary and benefits to which they would otherwise be entitled and shall remain employees of the sending agency for all other purposes except that the supervision of their duties during the period of detail may be governed by agreement between the sending agency and the receiving agency.

(3) Any employee who participates in an exchange under the terms of this section who suffers disability or death as a result of personal injury arising out of and in the course of an exchange, or sustained in performance of duties in connection therewith, shall be treated, for the purposes of the sending agency's employee compensation program, as an employee, as defined in such act, who has sustained such injury in the performance of such duty, but shall not receive benefits under that act for any period for which he or she is entitled to and elects to receive similar benefits under the receiving agency's employee compensation program.

History.—s. 4, ch. 65-524; s. 696, ch. 95-147.

112.29 Travel expenses of employees of this state.—A sending agency in this state may, in accordance with the travel regulations of such agency, pay the travel expenses of employees assigned to a receiving agency on either a detail or leave basis, but shall not pay the travel expenses of such employees incurred in connection with their work assignments at the receiving agency. During the period of assignment, the sending agency may pay a per diem allowance to the employee on assignment or detail.

History.—s. 5, ch. 65-524.

112.30 Status of employees of other governments.—

(1) When any unit of government of this state acts as a receiving agency, employees of the sending agency who are assigned under authority of this part may be considered to be on detail to the receiving agency.

(2) Appointments of persons so assigned may be made without regard to the laws or regulations governing the selection of employees of the receiving agency. Such person shall be in the unclassified service of the state.

(3) Employees who are detailed to the receiving agency shall not by virtue of such detail be considered to be employees thereof, except as provided in subsection (4), nor shall they be paid a salary or wage by the receiving agency during the period of their detail. The supervision of the duties of such employees during the period of detail may be governed by agreement between the sending agency and the receiving agency.

(4) Any employee of a sending agency assigned in this state who suffers disability or death as a result of personal injury arising out of and in the course of such assignment, or sustained in the performance of duties in connection therewith, shall be treated for the purpose of sending agency's employee compensation program, as an employee, as defined in such act, who has sustained such injury in the performance of such duty, but shall not receive benefits under that act for any period for which he or she elects to receive similar benefits as an employee under the receiving agency's employee compensation program.

History.—s. 6, ch. 65-524; s. 697, ch. 95-147.

112.31 Travel expenses of employees of other governments.—A receiving agency in this state may, in accordance with the travel regulations of such agency, pay travel expenses of persons assigned thereto under this part during the period of such assignments on the same basis as if they were regular employees of the receiving agency.

History.—s. 7, ch. 65-524.

PART III
CODE OF ETHICS FOR PUBLIC OFFICERS AND EMPLOYEES

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112.311 Legislative intent and declaration of policy.—

(1) It is essential to the proper conduct and operation of government that public officials be independent and impartial and that public office not be used for private gain other than the remuneration provided by law. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected officials and government employees in situations where conflicts may exist.

(2) It is also essential that government attract those citizens best qualified to serve. Thus, the law against conflict of interest must be so designed as not to impede unreasonably or unnecessarily the recruitment and retention by government of those best qualified to serve. Public officials should not be denied the opportunity, available to all other citizens, to acquire and retain private economic interests except when conflicts with the responsibility of such officials to the public cannot be avoided.

(3) It is likewise essential that the people be free to seek redress of their grievances and express their opinions to all government officials on current issues and past or pending legislative and executive actions at every level of government. In order to preserve and maintain the integrity of the governmental process, it is necessary that the identity, expenditures, and activities of those persons who regularly engage in efforts to persuade public officials to take specific actions, either by direct communication with such officials or by solicitation of others to engage in such efforts, be regularly disclosed to the people.

(4) It is the intent of this act to implement these objectives of protecting the integrity of government and of facilitating the recruitment and retention of qualified personnel by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.

(5) It is hereby declared to be the policy of the state that no officer or employee of a state agency or of a county, city, or other political subdivision of the state, and no member of the Legislature or legislative employee, shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest. To implement this policy and strengthen the faith and confidence of the people of the state in their government, there is enacted a code of ethics setting forth standards of conduct required of state, county, and city officers and employees, and of officers and employees of other political subdivisions of the state, in the performance of their official duties. It is the intent of the Legislature that this code shall serve not only as a guide for the official conduct of public servants in this state, but also as a basis for discipline of those who violate the provisions of this part.

(6) It is declared to be the policy of the state that public officers and employees, state and local, are agents of the people and hold their positions for the benefit of the public. They are bound to uphold the Constitution of the United States and the State Constitution and to perform efficiently and faithfully their duties under the laws of the federal, state, and local governments. Such officers and employees are bound to observe, in their official acts, the highest standards of ethics consistent with this code and the advisory opinions rendered with respect hereto regardless of personal considerations, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern.

History.—s. 1, ch. 67-469; s. 1, ch. 69-335; s. 1, ch. 74-177; s. 2, ch. 75-208; s. 698, ch. 95-147.

112.312 Definitions.— As used in this part and for purposes of the provisions of s. 8, Art. II of the State Constitution, unless the context otherwise requires:

(1) "Advisory body" means any board, commission, committee, council, or authority, however selected, whose total budget, appropriations, or authorized expenditures constitute less than 1 percent of the budget of each agency it serves or $100,000, whichever is less, and whose powers, jurisdiction, and authority are solely advisory and do not include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relating to its internal operations.

(2) "Agency" means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; any public school, community college, or state university; or any special district as defined in s. 189.012.

(3) "Breach of the public trust" means a violation of a provision of the State Constitution or this part which establishes a standard of ethical conduct, a disclosure requirement, or a prohibition applicable to public officers or employees in order to avoid conflicts between public duties and private interests, including, without limitation, a violation of s. 8, Art. II of the State Constitution or of this part.

(4) "Business associate" means any person or entity engaged in or carrying on a business enterprise with a public officer, public employee, or candidate as a partner, joint venturer, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or coowner of property.

(5) "Business entity" means any corporation, partnership, limited partnership, company, limited liability company, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not, doing business in this state.

(6) "Candidate" means any person who has filed a statement of financial interest and qualification papers, has subscribed to the candidate's oath as required by s. 99.021, and seeks by election to become a public officer. This definition expressly excludes a committeeman or committeewoman regulated by chapter 103 and persons seeking any other office or position in a political party.

(7) "Commission" means the Commission on Ethics created by s. 112.320 or any successor to which its duties are transferred.

(8) "Conflict" or "conflict of interest" means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

(9) "Corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.

(10) "Disclosure period" means the taxable year for the person or business entity, whether based on a calendar or fiscal year, immediately preceding the date on which, or the last day of the period during which, the financial disclosure statement required by this part is required to be filed.

(11) "Facts materially related to the complaint at issue" means facts which tend to show a violation of this part or s. 8, Art. II of the State Constitution by the alleged violator other than those alleged in the complaint and consisting of separate instances of the same or similar conduct as alleged in the complaint, or which tend to show an additional violation of this part or s. 8, Art. II of the State Constitution by the alleged violator which arises out of or in connection with the allegations of the complaint.

(12)(a) "Gift," for purposes of ethics in government and financial disclosure required by law, means that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee's benefit or by any other means, for which equal or greater consideration is not given within 90 days, including:

1. Real property.
2. The use of real property.
3. Tangible or intangible personal property.
4. The use of tangible or intangible personal property.
5. A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.
6. Forgiveness of an indebtedness.
7. Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging, or parking.
8. Food or beverage.
9. Membership dues.
10. Entrance fees, admission fees, or tickets to events, performances, or facilities.
11. Plants, flowers, or floral arrangements.
12. Services provided by persons pursuant to a professional license or certificate.

13. Other personal services for which a fee is normally charged by the person providing the services.

14. Any other similar service or thing having an attributable value not already provided for in this section.

(b) "Gift" does not include:

1. Salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with the donee's employment, business, or service as an officer or director of a corporation or organization.

2. Except as provided in s. 112.31485, contributions or expenditures reported pursuant to chapter 106, contributions or expenditures reported pursuant to federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party or affiliated party committee.

3. An honorarium or an expense related to an honorarium event paid to a person or the person's spouse.

4. An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service.

5. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization.

6. The use of a public facility or public property, made available by a governmental agency, for a public purpose.

7. Transportation provided to a public officer or employee by an agency in relation to officially approved governmental business.

8. Gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization.

(c) For the purposes of paragraph (a), "intangible personal property" means property as defined in s. 192.001(11)(b).

(d) For the purposes of paragraph (a), the term "consideration" does not include a promise to pay or otherwise provide something of value unless the promise is in writing and enforceable through the courts.

(13) "Indirect" or "indirect interest" means an interest in which legal title is held by another as trustee or other representative capacity, but the equitable or beneficial interest is held by the person required to file under this part.

(14) "Liability" means any monetary debt or obligation owed by the reporting person to another person, entity, or governmental entity, except for credit card and retail installment accounts, taxes owed unless reduced to a judgment, indebtedness on a life insurance policy owed to the company of issuance, contingent liabilities, or accrued income taxes on net unrealized appreciation. Each liability which is required to be disclosed by s. 8, Art. II of the State Constitution shall identify the name and address of the creditor.

(15) "Material interest" means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity. For the purposes of this act, indirect ownership does not include ownership by a spouse or minor child.

(16) "Materially affected" means involving an interest in real property located within the jurisdiction of the official's agency or involving an investment in a business entity, a source of income or a position of employment, office, or management in any business entity located within the jurisdiction or doing business within the jurisdiction of the official's agency which is or will be affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected.

(17) "Ministerial matter" means action that a person takes in a prescribed manner in obedience to the mandate of legal authority, without the exercise of the person's own judgment or discretion as to the propriety of the action taken.

(18) "Parties materially related to the complaint at issue" means any other public officer or employee within the same agency as the alleged violator who has engaged in the same conduct as that alleged in the complaint, or any other public officer or employee who has participated with the alleged violator in the alleged violation as a coconspirator or as an aider and abettor.

(19) "Person or business entities provided a grant or privilege to operate" includes state and federally chartered banks, state and federal savings and loan associations, cemetery companies, insurance companies, mortgage

companies, credit unions, small loan companies, alcoholic beverage licensees, pari-mutuel wagering companies, utility companies, and entities controlled by the Public Service Commission or granted a franchise to operate by either a city or county government.

(20) "Purchasing agent" means a public officer or employee having the authority to commit the expenditure of public funds through a contract for, or the purchase of, any goods, services, or interest in real property for an agency, as opposed to the authority to request or requisition a contract or purchase by another person.

(21) "Relative," unless otherwise specified in this part, means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee.

(22) "Represent" or "representation" means actual physical attendance on behalf of a client in an agency proceeding, the writing of letters or filing of documents on behalf of a client, and personal communications made with the officers or employees of any agency on behalf of a client.

(23) "Source" means the name, address, and description of the principal business activity of a person or business entity.

(24) "Value of real property" means the most recently assessed value in lieu of a more current appraisal.

History.—s. 2, ch. 67-469; ss. 11, 12, ch. 68-35; s. 8, ch. 69-353; s. 2, ch. 74-177; s. 1, ch. 75-196; s. 1, ch. 75-199; s. 3, ch. 75-208; s. 4, ch. 76-18; s. 1, ch. 77-174; s. 2, ch. 82-98; s. 1, ch. 83-282; s. 2, ch. 90-502; s. 2, ch. 91-85; s. 3, ch. 91-292; s. 699, ch. 95-147; s. 1, ch. 96-328; s. 1, ch. 2000-243; ss. 28, 30, ch. 2011-6; s. 75, ch. 2011-40; HJR 7105, 2011 Regular Session; s. 1, ch. 2013-36; s. 3, ch. 2014-22.

112.3125 Dual public employment.—

(1) As used in this section, the term "public officer" includes any person who is elected to state or local office or, for the period of his or her candidacy, any person who has qualified as a candidate for state or local office.

(2) A public officer may not accept public employment with the state or any of its political subdivisions if the public officer knows, or with the exercise of reasonable care should know, that the position is being offered by the employer for the purpose of gaining influence or other advantage based on the public officer's office or candidacy.

(3) Any public employment accepted by a public officer must meet all of the following conditions:

(a) The position was already in existence or was created by the employer without the knowledge or anticipation of the public officer's interest in such position;

(b) The position was publicly advertised;

(c) The public officer was subject to the same application and hiring process as other candidates for the position; and

(d) The public officer meets or exceeds the required qualifications for the position.

(4) A person who was employed by the state or any of its political subdivisions before qualifying as a public officer for his or her current term of office or the next available term of office may continue his or her employment. However, he or she may not accept promotion, advancement, additional compensation, or anything of value that he or she knows, or with the exercise of reasonable care should know, is provided or given as a result of his or her election or position, or that is otherwise inconsistent with the promotion, advancement, additional compensation, or anything of value provided or given an employee who is similarly situated.

(5) This section may not be interpreted as authorizing employment that is otherwise prohibited by law.

History.—s. 2, ch. 2013-36.

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(1) DEFINITION.—As used in this section, unless the context otherwise requires, the term "public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(2) SOLICITATION OR ACCEPTANCE OF GIFTS.—No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

(3) DOING BUSINESS WITH ONE'S AGENCY.—No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's or employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator's place of business or when such offices are on property wholly or partially owned by the legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to:

(a) October 1, 1975.

(b) Qualification for elective office.

(c) Appointment to public office.

(d) Beginning public employment.

(4) UNAUTHORIZED COMPENSATION.—No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

(5) SALARY AND EXPENSES.—No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.

(6) MISUSE OF PUBLIC POSITION.—No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31.

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency

shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.

(b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

(8) DISCLOSURE OR USE OF CERTAIN INFORMATION.—A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. 110.402 or any person holding a position in the Selected Exempt Service as defined in s. 110.602 or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the director of the Office of Program Policy Analysis and Government Accountability, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Governors of the State University System; and the president, provost, vice presidents, and deans of each state university.

(VI) Any person, including an other-personal-services employee, having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3.a. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally

represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

b. For a period of 2 years following vacation of office, a former member of the Legislature may not act as a lobbyist for compensation before an executive branch agency, agency official, or employee. The terms used in this sub-subparagraph have the same meanings as provided in s. 112.3215.

4. An agency employee, including an agency employee who was employed on July 1, 2001, in a Career Service System position that was transferred to the Selected Exempt Service System under chapter 2001-43, Laws of Florida, may not personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or

e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

(b) In addition to the provisions of this part which are applicable to legislators and legislative employees by virtue of their being public officers or employees, the conduct of members of the Legislature and legislative employees shall be governed by the ethical standards provided in the respective rules of the Senate or House of Representatives which are not in conflict herewith.

(10) EMPLOYEES HOLDING OFFICE.—

(a) No employee of a state agency or of a county, municipality, special taxing district, or other political subdivision of the state shall hold office as a member of the governing board, council, commission, or authority, by whatever name known, which is his or her employer while, at the same time, continuing as an employee of such employer.

(b) The provisions of this subsection shall not apply to any person holding office in violation of such provisions on the effective date of this act. However, such a person shall surrender his or her conflicting employment prior to seeking reelection or accepting reappointment to office.

(11) PROFESSIONAL AND OCCUPATIONAL LICENSING BOARD MEMBERS.—No officer, director, or administrator of a Florida state, county, or regional professional or occupational organization or association, while holding such position, shall be eligible to serve as a member of a state examining or licensing board for the profession or occupation.

(12) EXEMPTION.—The requirements of subsections (3) and (7) as they pertain to persons serving on advisory boards may be waived in a particular instance by the body which appointed the person to the advisory board, upon a full disclosure of the transaction or relationship to the appointing body prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of that body. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (3) or subsection (7) if:

(a) Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.

(b) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;

2. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

3. The official, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business.

(c) The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.

(d) An emergency purchase or contract which would otherwise violate a provision of subsection (3) or subsection (7) must be made in order to protect the health, safety, or welfare of the citizens of the state or any political subdivision thereof.

(e) The business entity involved is the only source of supply within the political subdivision of the officer or employee and there is full disclosure by the officer or employee of his or her interest in the business entity to the governing body of the political subdivision prior to the purchase, rental, sale, leasing, or other business being transacted.

(f) The total amount of the transactions in the aggregate between the business entity and the agency does not exceed $500 per calendar year.

(g) The fact that a county or municipal officer or member of a public board or body, including a district school officer or an officer of any district within a county, is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds coming under the jurisdiction of any such public board or body, provided it appears in the records of the agency that the governing body of the agency has determined that such officer or member of a public board or body has not favored such bank over other qualified banks.

(h) The transaction is made pursuant to s. 1004.22 or s. 1004.23 and is specifically approved by the president and the chair of the university board of trustees. The chair of the university board of trustees shall submit to the Governor and the Legislature by March 1 of each year a report of the transactions approved pursuant to this paragraph during the preceding year.

(i) The public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.

(j) The public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency and:

1. The price and terms of the transaction are available to similarly situated members of the general public; and

2. The officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

(13) COUNTY AND MUNICIPAL ORDINANCES AND SPECIAL DISTRICT AND SCHOOL DISTRICT RESOLUTIONS REGULATING FORMER OFFICERS OR EMPLOYEES.—The governing body of any county or municipality may adopt an ordinance and the governing body of any special district or school district may adopt a resolution providing that an appointed county, municipal, special district, or school district officer or a county, municipal, special district, or school district employee may not personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or employee for a period of 2 years following vacation of office or termination of employment, except for the purposes of collective bargaining. Nothing in this section may be construed to prohibit such ordinance or resolution.

(14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.—A person who has been elected to any county, municipal, special district, or school district office may not personally represent another person or entity for compensation before the government body or agency of which the person was an officer for a period of 2 years after vacating that office. For purposes of this subsection:

(a) The "government body or agency" of a member of a board of county commissioners consists of the commission, the chief administrative officer or employee of the county, and their immediate support staff.

(b) The "government body or agency" of any other county elected officer is the office or department headed by that officer, including all subordinate employees.

(c) The "government body or agency" of an elected municipal officer consists of the governing body of the municipality, the chief administrative officer or employee of the municipality, and their immediate support staff.

(d) The "government body or agency" of an elected special district officer is the special district.

(e) The "government body or agency" of an elected school district officer is the school district.

(15) ADDITIONAL EXEMPTION.—No elected public officer shall be held in violation of subsection (7) if the officer maintains an employment relationship with an entity which is currently a tax-exempt organization under s. 501(c) of the Internal Revenue Code and which contracts with or otherwise enters into a business relationship with the officer's agency and:

(a) The officer's employment is not directly or indirectly compensated as a result of such contract or business relationship;

(b) The officer has in no way participated in the agency's decision to contract or to enter into the business relationship with his or her employer, whether by participating in discussion at the meeting, by communicating with officers or employees of the agency, or otherwise; and

(c) The officer abstains from voting on any matter which may come before the agency involving the officer's employer, publicly states to the assembly the nature of the officer's interest in the matter from which he or she is abstaining, and files a written memorandum as provided in s. 112.3143.

(16) LOCAL GOVERNMENT ATTORNEYS.—

(a) For the purposes of this section, "local government attorney" means any individual who routinely serves as the attorney for a unit of local government. The term shall not include any person who renders legal services to a unit of local government pursuant to contract limited to a specific issue or subject, to specific litigation, or to a specific administrative proceeding. For the purposes of this section, "unit of local government" includes, but is not limited to, municipalities, counties, and special districts.

(b) It shall not constitute a violation of subsection (3) or subsection (7) for a unit of local government to contract with a law firm, operating as either a partnership or a professional association, or in any combination thereof, or with a local government attorney who is a member of or is otherwise associated with the law firm, to provide any or all legal services to the unit of local government, so long as the local government attorney is not a full-time employee or member of the governing body of the unit of local government. However, the standards of conduct as provided in subsections (2), (4), (5), (6), and (8) shall apply to any person who serves as a local government attorney.

(c) No local government attorney or law firm in which the local government attorney is a member, partner, or employee shall represent a private individual or entity before the unit of local government to which the local government attorney provides legal services. A local government attorney whose contract with the unit of local government does not include provisions that authorize or mandate the use of the law firm of the local government attorney to complete legal services for the unit of local government shall not recommend or otherwise refer legal work to that attorney's law firm to be completed for the unit of local government.

(17) BOARD OF GOVERNORS AND BOARDS OF TRUSTEES.—No citizen member of the Board of Governors of the State University System, nor any citizen member of a board of trustees of a local constituent university, shall have or hold any employment or contractual relationship as a legislative lobbyist requiring annual registration and reporting pursuant to s. 11.045.

History.—s. 3, ch. 67-469; s. 2, ch. 69-335; ss. 10, 35, ch. 69-106; s. 3, ch. 74-177; ss. 4, 11, ch. 75-208; s. 1, ch. 77-174; s. 1, ch. 77-349; s. 4, ch. 82-98; s. 2, ch. 83-26; s. 6, ch. 83-282; s. 14, ch. 85-80; s. 12, ch. 86-145; s. 1, ch. 88-358; s. 1, ch. 88-408; s. 3, ch. 90-502; s. 3, ch. 91-85; s. 4, ch. 91-292; s. 1, ch. 92-35; s. 1, ch. 94-277; s. 1406, ch. 95-147; s. 3, ch. 96-311; s. 34, ch. 96-318; s. 41, ch. 99-2; s. 29, ch. 2001-266; s. 20, ch. 2002-1; s. 894, ch. 2002-387; s. 2, ch. 2005-285; s. 2, ch. 2006-275; s. 10, ch. 2007-217; s. 16, ch. 2011-34; s. 3, ch. 2013-36.

112.3135 Restriction on employment of relatives.—

(1) In this section, unless the context otherwise requires:

(a) "Agency" means:

1. A state agency, except an institution under the jurisdiction of the Board of Governors of the State University System;

2. An office, agency, or other establishment in the legislative branch;

3. An office, agency, or other establishment in the judicial branch;

4. A county;

5. A city; and

6. Any other political subdivision of the state, except a district school board or community college district.

(b) "Collegial body" means a governmental entity marked by power or authority vested equally in each of a number of colleagues.

(c) "Public official" means an officer, including a member of the Legislature, the Governor, and a member of the Cabinet, or an employee of an agency in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency, including the authority as a member of a collegial body to vote on the appointment, employment, promotion, or advancement of individuals.

(d) "Relative," for purposes of this section only, with respect to a public official, means an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(2)(a) A public official may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the agency in which the official is serving or over which the official exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual or if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative of the individual is a member. However, this subsection shall not apply to appointments to boards other than those with land-planning or zoning responsibilities in those municipalities with less than 35,000 population. This subsection does not apply to persons serving in a volunteer capacity who provide emergency medical, firefighting, or police services. Such persons may receive, without losing their volunteer status, reimbursements for the costs of any training they get relating to the provision of volunteer emergency medical, firefighting, or police services and payment for any incidental expenses relating to those services that they provide.

(b) Mere approval of budgets shall not be sufficient to constitute "jurisdiction or control" for the purposes of this section.

(3) An agency may prescribe regulations authorizing the temporary employment, in the event of an emergency as defined in s. 252.34, of individuals whose employment would be otherwise prohibited by this section.

(4) Legislators' relatives may be employed as pages or messengers during legislative sessions.

History.—ss. 1, 2, 3, ch. 69-341; ss. 15, 35, ch. 69-106; s. 70, ch. 72-221; s. 3, ch. 83-334; s. 1, ch. 89-67; s. 4, ch. 90-502; s. 2, ch. 94-277; s. 1407, ch. 95-147; s. 1, ch. 98-160; s. 42, ch. 99-2; s. 11, ch. 2007-217; s. 47, ch. 2011-142.

Note.—Former s. 116.111.

112.3136 Standards of conduct for officers and employees of entities serving as chief administrative officer of political subdivisions.—The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision, for the purposes of the following sections, are public officers and employees who are subject to the following standards of conduct of this part:

(1) Section 112.313, and their "agency" is the political subdivision that they serve; however, the contract under which the business entity serves as chief executive or administrative officer of the political subdivision is not deemed to violate s. 112.313(3) or (7).

(2) Section 112.3145, as a "local officer."

(3) Sections 112.3148 and 112.3149, as a "reporting individual."

History.—s. 1, ch. 2009-126.

112.3142 Ethics training for specified constitutional officers and elected municipal officers.—

(1) As used in this section, the term "constitutional officers" includes the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.

(2)(a) All constitutional officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(b) Beginning January 1, 2015, all elected municipal officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

(c) The commission shall adopt rules establishing minimum course content for the portion of an ethics training class which addresses s. 8, Art. II of the State Constitution and the Code of Ethics for Public Officers and Employees.

(d) The Legislature intends that a constitutional officer or elected municipal officer who is required to complete ethics training pursuant to this section receive the required training as close as possible to the date that he or she assumes office. A constitutional officer or elected municipal officer assuming a new office or new term of office on or before March 31 must complete the annual training on or before December 31 of the year in which the term of office began. A constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began.

(3) Each house of the Legislature shall provide for ethics training pursuant to its rules.

History.—s. 4, ch. 2013-36; s. 2, ch. 2014-183.

112.31425 Qualified blind trusts.—

(1) The Legislature finds that if a public officer creates a trust and does not control the interests held by the trust, his or her official actions will not be influenced or appear to be influenced by private considerations.

(2) If a public officer holds a beneficial interest in a qualified blind trust as described in this section, he or she does not have a conflict of interest prohibited under s. 112.313(3) or (7) or a voting conflict of interest under s. 112.3143 with regard to matters pertaining to that interest.

(3) The public officer may not attempt to influence or exercise any control over decisions regarding the management of assets in a qualified blind trust. The public officer or any person having a beneficial interest in the qualified blind trust may not make any effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto, except as otherwise provided in this section.

(4) Except for communications that consist solely of requests for distributions of cash or other unspecified assets of the trust, the public officer or the person who has a beneficial interest may not have any direct or indirect communication with the trustee with respect to the trust, unless such communication is in writing and relates only to:

(a) A distribution from the trust which does not specify the source or assets within the trust from which the distribution is to be made in cash or in kind;

(b) The general financial interests and needs of the public officer or the person who has a beneficial interest, including, but not limited to, an interest in maximizing income or long-term capital gain;

(c) A notification of the trustee of a law or regulation subsequently applicable to the public officer which prohibits the officer from holding an asset and directs that the asset not be held by the trust; or

(d) A direction to the trustee to sell all of an asset initially placed in the trust by the public officer which, in the determination of the public officer, creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the public officer.

(5) The public officer shall report the beneficial interest in the qualified blind trust and its value as an asset on his or her financial disclosure form, if the value is required to be disclosed. The public officer shall report the blind trust as a primary source of income on his or her financial disclosure forms and its amount, if the amount of income is required to be disclosed. The public officer is not required to report as a secondary source of income any source of income to the blind trust.

(6) In order to constitute a qualified blind trust, the trust established by the public officer must meet the following requirements:

(a) The appointed trustee must be a bank, trust company, or other institutional fiduciary or an individual who is an attorney, certified public accountant, broker, or investment advisor. If the trustee is an individual or if the trustee is a bank, trust company, or other institutional fiduciary, the individual responsible for managing the trust may not be:

1. The public officer's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, or first cousin, or the spouse of any such person;

2. A person who is an elected or appointed public officer or a public employee;

3. A person who has been appointed to serve in an agency by the public officer or by a public officer or public employee supervised by the public officer; or

4. A business associate or principal of the public officer.

(b) All assets in the trust must be free of any restrictions with respect to their transfer or sale. The trust may not contain investments or assets the transfer of which by the trustee is improbable or impractical without the public officer's knowledge.

(c) The trust agreement must:

1. Contain a statement that its purpose is to remove from the grantor control and knowledge of investment of trust assets so that conflicts between the grantor's responsibilities as a public officer and his or her private interests are eliminated.

2. Give the trustee complete discretion to manage the trust, including, but not limited to, the power to dispose of and acquire trust assets without consulting or notifying the covered public officer or the person having a beneficial interest in the trust.

3. Prohibit communication between the trustee and the public officer, or the person who has a beneficial interest in the trust, concerning the holdings or sources of income of the trust, except amounts of cash value or net income or loss, if such report does not identify any asset or holding, or except as provided in this section.

4. Provide that the trust tax return is prepared by the trustee or his or her designee and that any information relating thereto is not disclosed to the public officer or to the person who has a beneficial interest, except as provided in this section.

5. Permit the trustee to notify the public officer of the date of disposition and value at disposition of any original investment or interest in real property to the extent required by federal tax law so that the information can be reported on the public officer's applicable tax returns.

6. Prohibit the trustee from disclosing to the public officer or the person who has a beneficial interest any information concerning replacement assets to the trust, except for the minimum tax information necessary to enable the public official to complete an individual tax return required by law.

(d) Within 5 business days after the agreement is executed, the public officer shall file with the commission a notice setting forth:

1. The date that the agreement is executed.

2. The name and address of the trustee.

3. The acknowledgment by the trustee that he or she has agreed to serve as trustee.

4. A certification by the trustee on a form prescribed by the commission that the trust meets all of the requirements of this section. In lieu of said certification, the public officer may file a copy of the trust agreement.

5. A complete list of assets placed in the trust that the public officer would be required to disclose pursuant to s. 112.3144 or s. 112.3145.

(7) If the trust is revoked while the covered public official is a public officer, or if the covered public official learns of any replacement assets that have been added to the trust, the covered public official shall file an amendment to his or her most recent financial disclosure statement. The amendment shall be filed no later than 60 days after the date of revocation or the addition of the replacement assets. The covered public official shall disclose the previously unreported pro rata share of the trust's interests in investments or income deriving from any such investments. For purposes of this section, any replacement asset that becomes known to the covered public official shall thereafter be treated as though it were an original asset of the trust.

History.—s. 5, ch. 2013-36.

112.3143 Voting conflicts.—

(1) As used in this section:

(a) "Principal by whom retained" means an individual or entity, other than an agency as defined in s. 112.312(2), that for compensation, salary, pay, consideration, or similar thing of value, has permitted or directed another to act for the individual or entity, and includes, but is not limited to, one's client, employer, or the parent, subsidiary, or sibling organization of one's client or employer.

(b) "Public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(c) "Relative" means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.

(d) "Special private gain or loss" means an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer, his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:

1. The size of the class affected by the vote.
2. The nature of the interests involved.
3. The degree to which the interests of all members of the class are affected by the vote.
4. The degree to which the officer, his or her relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.

The degree to which there is uncertainty at the time of the vote as to whether there would be any economic benefit or harm to the public officer, his or her relative, business associate, or principal and, if so, the nature or degree of the economic benefit or harm must also be considered.

(2)(a) A state public officer may not vote on any matter that the officer knows would inure to his or her special private gain or loss. Any state public officer who abstains from voting in an official capacity upon any measure that the officer knows would inure to the officer's special private gain or loss, or who votes in an official capacity on a measure that he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained other than an agency as defined in s. 112.312(2); or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer, shall make every reasonable effort to disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes. If it is not possible for the state public officer to file a memorandum before the vote, the memorandum must be filed with the person responsible for recording the minutes of the meeting no later than 15 days after the vote.

(b) A member of the Legislature may satisfy the disclosure requirements of this section by filing a disclosure form created pursuant to the rules of the member's respective house if the member discloses the information required by

this subsection.

(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(b) However, a commissioner of a community redevelopment agency created or designated pursuant to s. 163.356 or s. 163.357, or an officer of an independent special tax district elected on a one-acre, one-vote basis, is not prohibited from voting, when voting in said capacity.

(4) No appointed public officer shall participate in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer, without first disclosing the nature of his or her interest in the matter.

(a) Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, prior to the meeting in which consideration of the matter will take place, and shall be incorporated into the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(b) In the event that disclosure has not been made prior to the meeting or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within 15 days after the oral disclosure with the person responsible for recording the minutes of the meeting and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the agency, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

(c) For purposes of this subsection, the term "participate" means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer's direction.

(5) If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

(6) Whenever a public officer or former public officer is being considered for appointment or reappointment to public office, the appointing body shall consider the number and nature of the memoranda of conflict previously filed under this section by said officer.

History.—s. 6, ch. 75-208; s. 2, ch. 84-318; s. 1, ch. 84-357; s. 2, ch. 86-148; s. 5, ch. 91-85; s. 3, ch. 94-277; s. 1408, ch. 95-147; s. 43, ch. 99-2; s. 6, ch. 2013-36.

112.3144 Full and public disclosure of financial interests.—

(1) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year shall file that disclosure with the Florida Commission on Ethics. Additionally, beginning January 1, 2015, an officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her full and public disclosure of financial interests that he or she has completed the required training.

(2) A person who is required, pursuant to s. 8, Art. II of the State Constitution, to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year

shall not be required to file a statement of financial interests pursuant to s. 112.3145(2) and (3) for the same year or for any part thereof notwithstanding any requirement of this part. If an incumbent in an elective office has filed the full and public disclosure of financial interests to qualify for election to the same office or if a candidate for office holds another office subject to the annual filing requirement, the qualifying officer shall forward an electronic copy of the full and public disclosure of financial interests to the commission no later than July 1. The electronic copy of the full and public disclosure of financial interests satisfies the annual disclosure requirement of this section. A candidate who does not qualify until after the annual full and public disclosure of financial interests has been filed pursuant to this section shall file a copy of his or her disclosure with the officer before whom he or she qualifies.

(3) For purposes of full and public disclosure under s. 8(a), Art. II of the State Constitution, the following items, if not held for investment purposes and if valued at over $1,000 in the aggregate, may be reported in a lump sum and identified as "household goods and personal effects":

(a) Jewelry;

(b) Collections of stamps, guns, and numismatic properties;

(c) Art objects;

(d) Household equipment and furnishings;

(e) Clothing;

(f) Other household items; and

(g) Vehicles for personal use.

(4)(a) With respect to reporting, on forms prescribed under this section, assets valued in excess of $1,000 which the reporting individual holds jointly with another person, the amount reported shall be based on the reporting individual's legal percentage of ownership in the property. However, assets that are held jointly, with right of survivorship, must be reported at 100 percent of the value of the asset. For purposes of this subsection, a reporting individual is deemed to own a percentage of a partnership which is equal to the reporting individual's interest in the capital or equity of the partnership.

(b)1. With respect to reporting liabilities valued in excess of $1,000 on forms prescribed under this section for which the reporting individual is jointly and severally liable, the amount reported shall be based on the reporting individual's percentage of liability rather than the total amount of the liability. However, liability for a debt that is secured by property owned by the reporting individual but that is held jointly, with right of survivorship, must be reported at 100 percent of the total amount owed.

2. A separate section of the form shall be created to provide for the reporting of the amounts of joint and several liability of the reporting individual not otherwise reported in subparagraph 1.

(5) Forms for compliance with the full and public disclosure requirements of s. 8, Art. II of the State Constitution shall be created by the Commission on Ethics. The commission shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a) Not later than May 1 of each year, the commission shall prepare a current list of the names and addresses of and the offices held by every person required to file full and public disclosure annually by s. 8, Art. II of the State Constitution, or other state law. In compiling the list, the commission shall be assisted by each unit of government in providing at the request of the commission the name, address, and name of the office held by each public official within the respective unit of government.

(b) Not later than 30 days before July 1 of each year, the commission shall mail a copy of the form prescribed for compliance with full and public disclosure and a notice of the filing deadline to each person on the mailing list.

(c) Not later than 30 days after July 1 of each year, the commission shall determine which persons on the mailing list have failed to file full and public disclosure and shall send delinquency notices by certified mail to such persons. Each notice shall state that a grace period is in effect until September 1 of the current year.

(d) Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner.

(e) Any person who is required to file full and public disclosure of financial interests and whose name is on the commission's mailing list but who fails to timely file is assessed a fine of $25 per day for each day late up to a maximum of $1,500; however this $1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and the procedures by which each person whose name is on the mailing list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific the following:

1. The amount of the fine due is based upon the earliest of the following:

a. When a statement is actually received by the office.

b. When the statement is postmarked.

c. When the certificate of mailing is dated.

d. When the receipt from an established courier company is dated.

2. Upon receipt of the disclosure statement or upon accrual of the maximum penalty, whichever occurs first, the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. Such fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 3. The moneys shall be deposited into the General Revenue Fund.

3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be made within 30 days after the notice of payment due is transmitted. In such a case, the reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

(f) Any person subject to the annual filing of full and public disclosure under s. 8, Art. II of the State Constitution, or other state law, whose name is not on the commission's mailing list of persons required to file full and public disclosure is not subject to the fines or penalties provided in this part for failure to file full and public disclosure in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(g) The notification requirements and fines of this subsection do not apply to candidates or to the first filing required of any person appointed to elective constitutional office or other position required to file full and public disclosure, unless the person's name is on the commission's notification list and the person received notification from the commission. The appointing official shall notify such newly appointed person of the obligation to file full and public disclosure by July 1. The notification requirements and fines of this subsection do not apply to the final filing provided for in subsection (7).

(h) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such fine to a collection agent as provided in s. 17.20.

(6) If a person holding public office or public employment fails or refuses to file a full and public disclosure of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a full and public disclosure of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment.

(7) Each person required to file full and public disclosure of financial interests shall file a final disclosure statement within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public

position requiring financial disclosure under s. 8, Art. II of the State Constitution, or is otherwise required to file full and public disclosure for the final disclosure period. The head of the agency of each person required to file full and public disclosure for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this subsection.

(8)(a) The commission shall treat an amended full and public disclosure of financial interests which is filed before September 1 of the year in which the disclosure is due as the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amended full and public disclosure of financial interests correcting any errors. If the filer does not file an amended full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final full and public disclosure of financial interests, the commission shall treat a new final full and public disclosure of financial interests as the original filing if filed within 60 days after the original filing, regardless of whether a complaint has been filed. If, more than 60 days after a final full and public disclosure of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint, other than notifying the filer of the complaint. The filer must be given 30 days to file a new final full and public disclosure of financial interests correcting any errors. If the filer does not file a new final full and public disclosure of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(9)(a) An individual required to file a disclosure pursuant to this section may have the disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this section and the instructions for completing and filing the disclosure forms and that, upon his or her reasonable knowledge and belief, the disclosure is true and correct. If a complaint is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual required to file is not a violation of this section.

(b) An elected officer or candidate who chooses to use an attorney or a certified public accountant to prepare his or her disclosure may pay for the services of the attorney or certified public accountant from funds in an office account created pursuant to s. 106.141 or, during a year that the individual qualifies for election to public office, the candidate's campaign depository pursuant to s. 106.021.

(10) The commission shall adopt rules and forms specifying how a person who is required to file full and public disclosure of financial interests may amend his or her disclosure statement to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

History.—s. 1, ch. 82-98; s. 3, ch. 88-358; s. 19, ch. 91-45; s. 4, ch. 94-277; s. 1409, ch. 95-147; s. 2, ch. 2000-243; s. 30, ch. 2000-258; s. 127, ch. 2003-261; s. 3, ch. 2006-275; s. 7, ch. 2013-36; s. 3, ch. 2014-183.

112.31445 Electronic filing system; full and public disclosure of financial interests.—

(1) As used in this section, the term "electronic filing system" means an Internet system for recording and reporting full and public disclosure of financial interests or any other form that is required pursuant to s. 112.3144.

(2) Beginning with the 2012 filing year, all full and public disclosures of financial interests filed with the commission pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 must be scanned and made publicly available by the commission through a searchable Internet database.

(3) By December 1, 2015, the commission shall submit a proposal to the President of the Senate and the Speaker of the House of Representatives for a mandatory electronic filing system. The proposal must, at a minimum:

(a) Provide for access through the Internet.

(b) Establish a procedure to make filings available in a searchable format that is accessible by an individual using standard web-browsing software.

(c) Provide for direct completion of the full and public disclosure of financial interests forms as well as upload such information using software approved by the commission.

(d) Provide a secure method that prevents unauthorized access to electronic filing system functions.

(e) Provide a method for an attorney or certified public accountant licensed in this state to sign the disclosure form to indicate that he or she prepared the form in accordance with s. 112.3144 and the instructions for completing and filing the disclosure form and that, upon his or her reasonable knowledge and belief, the form is true and correct.

(f) Address whether additional statutory or rulemaking authority is necessary for implementation of the system, and must include, at a minimum, the following elements: alternate filing procedures to be used in the event that the commission's electronic filing system is inoperable, issuance of an electronic receipt via electronic mail indicating and verifying to the individual who submitted the full and public disclosure of financial interests form that the form has been filed, and a determination of the feasibility and necessity of including statements of financial interests filed pursuant to s. 112.3145 in the proposed system.

History.—s. 8, ch. 2013-36.

112.3145 Disclosure of financial interests and clients represented before agencies.—

(1) For purposes of this section, unless the context otherwise requires, the term:

(a) "Local officer" means:

1. Every person who is elected to office in any political subdivision of the state, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. Any appointed member of any of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision of the state:

a. The governing body of the political subdivision, if appointed;

b. A community college or junior college district board of trustees;

c. A board having the power to enforce local code provisions;

d. A planning or zoning board, board of adjustment, board of appeals, community redevelopment agency board, or other board having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and such other groups who only have the power to make recommendations to planning or zoning boards;

e. A pension board or retirement board having the power to invest pension or retirement funds or the power to make a binding determination of one's entitlement to or amount of a pension or other retirement benefit; or

f. Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.

3. Any person holding one or more of the following positions: mayor; county or city manager; chief administrative employee of a county, municipality, or other political subdivision; county or municipal attorney; finance director of a county, municipality, or other political subdivision; chief county or municipal building code inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator, with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; district school superintendent; community college president; district medical examiner; or purchasing agent having the authority to make any purchase exceeding the threshold amount

provided for in s. 287.017 for CATEGORY ONE, on behalf of any political subdivision of the state or any entity thereof.

(b) "Specified state employee" means:

1. Public counsel created by chapter 350, an assistant state attorney, an assistant public defender, a criminal conflict and civil regional counsel, an assistant criminal conflict and civil regional counsel, a full-time state employee who serves as counsel or assistant counsel to any state agency, the Deputy Chief Judge of Compensation Claims, a judge of compensation claims, an administrative law judge, or a hearing officer.

2. Any person employed in the office of the Governor or in the office of any member of the Cabinet if that person is exempt from the Career Service System, except persons employed in clerical, secretarial, or similar positions.

3. The State Surgeon General or each appointed secretary, assistant secretary, deputy secretary, executive director, assistant executive director, or deputy executive director of each state department, commission, board, or council; unless otherwise provided, the division director, assistant division director, deputy director, bureau chief, and assistant bureau chief of any state department or division; or any person having the power normally conferred upon such persons, by whatever title.

4. The superintendent or institute director of a state mental health institute established for training and research in the mental health field or the warden or director of any major state institution or facility established for corrections, training, treatment, or rehabilitation.

5. Business managers, purchasing agents having the power to make any purchase exceeding the threshold amount provided for in s. 287.017 for CATEGORY ONE, finance and accounting directors, personnel officers, or grants coordinators for any state agency.

6. Any person, other than a legislative assistant exempted by the presiding officer of the house by which the legislative assistant is employed, who is employed in the legislative branch of government, except persons employed in maintenance, clerical, secretarial, or similar positions.

7. Each employee of the Commission on Ethics.

(c) "State officer" means:

1. Any elected public officer, excluding those elected to the United States Senate and House of Representatives, not covered elsewhere in this part and any person who is appointed to fill a vacancy for an unexpired term in such an elective office.

2. An appointed member of each board, commission, authority, or council having statewide jurisdiction, excluding a member of an advisory body.

3. A member of the Board of Governors of the State University System or a state university board of trustees, the Chancellor and Vice Chancellors of the State University System, and the president of a state university.

4. A member of the judicial nominating commission for any district court of appeal or any judicial circuit.

(2)(a) A person seeking nomination or election to a state or local elective office shall file a statement of financial interests together with, and at the same time he or she files, qualifying papers. When a candidate has qualified for office prior to the deadline to file an annual statement of financial interests, the statement of financial interests that is filed with the candidate's qualifying papers shall be deemed to satisfy the annual disclosure requirement of this section. The qualifying officer must record that the statement of financial interests was timely filed. However, if a candidate does not qualify until after the annual statement of financial interests has been filed, the candidate may file a copy of his or her statement with the qualifying officer.

(b) Each state or local officer and each specified state employee shall file a statement of financial interests no later than July 1 of each year. Each state officer, local officer, and specified state employee shall file a final statement of financial interests within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under this section or s. 8, Art. II of the State Constitution or otherwise is required to file full and public disclosure or a statement of financial interests for the final disclosure period. Each state or local officer who is appointed and each specified state employee who is employed shall file a statement of financial interests within 30 days from the date of appointment or, in the case of a specified state employee, from the date on which the employment begins, except that any person whose appointment is subject to

confirmation by the Senate shall file prior to confirmation hearings or within 30 days from the date of appointment, whichever comes first.

(c) State officers and specified state employees shall file their statements of financial interests with the Commission on Ethics. Local officers shall file their statements of financial interests with the supervisor of elections of the county in which they permanently reside. Local officers who do not permanently reside in any county in the state shall file their statements of financial interests with the supervisor of elections of the county in which their agency maintains its headquarters. Persons seeking to qualify as candidates for local public office shall file their statements of financial interests with the officer before whom they qualify.

(3) The statement of financial interests for state officers, specified state employees, local officers, and persons seeking to qualify as candidates for state or local office shall be filed even if the reporting person holds no financial interests requiring disclosure, in which case the statement shall be marked "not applicable." Otherwise, the statement of financial interests shall include, at the filer's option, either:

(a)1. All sources of income in excess of 5 percent of the gross income received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received an amount which was in excess of 10 percent of his or her gross income during the disclosure period and which exceeds $1,500. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;

3. The location or description of real property in this state, except for residences and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal property worth in excess of 10 percent of such person's total assets. For the purposes of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and

4. Every individual liability that equals more than the reporting person's net worth; or

(b)1. All sources of gross income in excess of $2,500 received during the disclosure period by the person in his or her own name or by any other person for his or her use or benefit, excluding public salary. However, this shall not be construed to require disclosure of a business partner's sources of income. The person reporting shall list such sources in descending order of value with the largest source first;

2. All sources of income to a business entity in excess of 10 percent of the gross income of a business entity in which the reporting person held a material interest and from which he or she received gross income exceeding $5,000 during the disclosure period. The period for computing the gross income of the business entity is the fiscal year of the business entity which ended on, or immediately prior to, the end of the disclosure period of the person reporting;

3. The location or description of real property in this state, except for residence and vacation homes, owned directly or indirectly by the person reporting, when such person owns in excess of 5 percent of the value of such real property, and a general description of any intangible personal property worth in excess of $10,000. For the purpose of this paragraph, indirect ownership does not include ownership by a spouse or minor child; and

4. Every liability in excess of $10,000.

A person filing a statement of financial interests shall indicate on the statement whether he or she is using the method specified in paragraph (a) or paragraph (b).

(4) Beginning January 1, 2015, an officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her statement of financial interests that he or she has completed the required training.

(5) Each elected constitutional officer, state officer, local officer, and specified state employee shall file a quarterly report of the names of clients represented for a fee or commission, except for appearances in ministerial matters, before agencies at his or her level of government. For the purposes of this part, agencies of government shall be classified as

state-level agencies or agencies below state level. Each local officer shall file such report with the supervisor of elections of the county in which the officer is principally employed or is a resident. Each state officer, elected constitutional officer, and specified state employee shall file such report with the commission. The report shall be filed only when a reportable representation is made during the calendar quarter and shall be filed no later than the last day of each calendar quarter, for the previous calendar quarter. Representation before any agency shall be deemed to include representation by such officer or specified state employee or by any partner or associate of the professional firm of which he or she is a member and of which he or she has actual knowledge. For the purposes of this subsection, the term "representation before any agency" does not include appearances before any court or the Deputy Chief Judge of Compensation Claims or judges of compensation claims or representations on behalf of one's agency in one's official capacity. Such term does not include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license based on a quota or a franchise of such agency or a license or operation permit to engage in a profession, business, or occupation, so long as the issuance or granting of such license, permit, or transfer does not require substantial discretion, a variance, a special consideration, or a certificate of public convenience and necessity.

(6) Each elected constitutional officer and each candidate for such office, any other public officer required pursuant to s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests, and each state officer, local officer, specified state employee, and candidate for elective public office who is or was during the disclosure period an officer, director, partner, proprietor, or agent, other than a resident agent solely for service of process, of, or owns or owned during the disclosure period a material interest in, any business entity which is granted a privilege to operate in this state shall disclose such facts as a part of the disclosure form filed pursuant to s. 8, Art. II of the State Constitution or this section, as applicable. The statement shall give the name, address, and principal business activity of the business entity and shall state the position held with such business entity or the fact that a material interest is owned and the nature of that interest.

(7) Forms for compliance with the disclosure requirements of this section and a current list of persons subject to disclosure shall be created by the commission and provided to each supervisor of elections. The commission and each supervisor of elections shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a)1. Not later than May 1 of each year, the commission shall prepare a current list of the names and addresses of, and the offices or positions held by, every state officer, local officer, and specified employee. In compiling the list, the commission shall be assisted by each unit of government in providing, at the request of the commission, the name, address, and name of agency of, and the office or position held by, each state officer, local officer, or specified state employee within the respective unit of government.

2. Not later than May 15 of each year, the commission shall provide each supervisor of elections with a current mailing list of all local officers required to file with such supervisor of elections.

(b) Not later than 30 days before July 1 of each year, the commission and each supervisor of elections, as appropriate, shall mail a copy of the form prescribed for compliance with subsection (3) and a notice of all applicable disclosure forms and filing deadlines to each person required to file a statement of financial interests.

(c) Not later than 30 days after July 1 of each year, the commission and each supervisor of elections shall determine which persons required to file a statement of financial interests in their respective offices have failed to do so and shall send delinquency notices by certified mail, return receipt requested, to these persons. Each notice shall state that a grace period is in effect until September 1 of the current year; that no investigative or disciplinary action based upon the delinquency will be taken by the agency head or commission if the statement is filed by September 1 of the current year; that, if the statement is not filed by September 1 of the current year, a fine of $25 for each day late will be imposed, up to a maximum penalty of $1,500; for notices sent by a supervisor of elections, that he or she is required by law to notify the commission of the delinquency; and that, if upon the filing of a sworn complaint the commission finds that the person has failed to timely file the statement within 60 days after September 1 of the current year, such person will also be subject to the penalties provided in s. 112.317.

(d) No later than November 15 of each year, the supervisor of elections in each county shall certify to the commission a list of the names and addresses of, and the offices or positions held by, all persons who have failed to

timely file the required statements of financial interests. The certification must include the earliest of the dates described in subparagraph (f)1. The certification shall be on a form prescribed by the commission and shall indicate whether the supervisor of elections has provided the disclosure forms and notice as required by this subsection to all persons named on the delinquency list.

(e) Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner.

(f) Any person who is required to file a statement of financial interests and whose name is on the commission's mailing list but who fails to timely file is assessed a fine of $25 per day for each day late up to a maximum of $1,500; however, this $1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and procedures by which each person whose name is on the mailing list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific the following:

1. The amount of the fine due is based upon the earliest of the following:

a. When a statement is actually received by the office.

b. When the statement is postmarked.

c. When the certificate of mailing is dated.

d. When the receipt from an established courier company is dated.

2. For a specified state employee or a state officer, upon receipt of the disclosure statement by the commission or upon accrual of the maximum penalty, whichever occurs first, and for a local officer upon receipt by the commission of the certification from the local officer's supervisor of elections pursuant to paragraph (d), the commission shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. The fine must be paid within 30 days after the notice of payment due is transmitted, unless appeal is made to the commission pursuant to subparagraph 3. The moneys are to be deposited into the General Revenue Fund.

3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be made within 30 days after the notice of payment due is transmitted. In such a case, the reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

(g) Any state officer, local officer, or specified employee whose name is not on the mailing list of persons required to file an annual statement of financial interests is not subject to the penalties provided in s. 112.317 or the fine provided in this section for failure to timely file a statement of financial interests in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(h) The notification requirements and fines of this subsection do not apply to candidates or to the first or final filing required of any state officer, specified employee, or local officer as provided in paragraph (2)(b).

(i) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such a fine to a collection agent as provided in s. 17.20.

(8)(a) The appointing official or body shall notify each newly appointed local officer, state officer, or specified state employee, not later than the date of appointment, of the officer's or employee's duty to comply with the disclosure requirements of this section. The agency head of each employing agency shall notify each newly employed local officer or specified state employee, not later than the day of employment, of the officer's or employee's duty to comply with

the disclosure requirements of this section. The appointing official or body or employing agency head may designate a person to be responsible for the notification requirements of this paragraph.

(b) The agency head of the agency of each local officer, state officer, or specified state employee who is required to file a statement of financial interests for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this paragraph.

(c) If a person holding public office or public employment fails or refuses to file an annual statement of financial interests for any year in which the person received notice from the commission regarding the failure to file and has accrued the maximum automatic fine authorized under this section, regardless of whether the fine imposed was paid or collected, the commission shall initiate an investigation and conduct a public hearing without receipt of a complaint to determine whether the person's failure to file is willful. Such investigation and hearing must be conducted in accordance with s. 112.324. Except as provided in s. 112.324(4), if the commission determines that the person willfully failed to file a statement of financial interests, the commission shall enter an order recommending that the officer or employee be removed from his or her public office or public employment.

(9) A public officer who has filed a disclosure for any calendar or fiscal year shall not be required to file a second disclosure for the same year or any part thereof, notwithstanding any requirement of this act, except that any public officer who qualifies as a candidate for public office shall file a copy of the disclosure with the officer before whom he or she qualifies as a candidate at the time of qualification.

(10)(a) The commission shall treat an amended annual statement of financial interests which is filed before September 1 of the year in which the statement is due as the original filing, regardless of whether a complaint has been filed. If a complaint alleges only an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file an amended statement of financial interests correcting any errors. If the filer does not file an amended statement of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(b) For purposes of the final statement of financial interests, the commission shall treat a new final statement of financial interests as the original filing, if filed within 60 days of the original filing regardless of whether a complaint has been filed. If, more than 60 days after a final statement of financial interests is filed, a complaint is filed alleging a complete omission of any information required to be disclosed by this section, the commission may immediately follow the complaint procedures in s. 112.324. However, if the complaint alleges an immaterial, inconsequential, or de minimis error or omission, the commission may not take any action on the complaint other than notifying the filer of the complaint. The filer must be given 30 days to file a new final statement of financial interests correcting any errors. If the filer does not file a new final statement of financial interests within 30 days after the commission sends notice of the complaint, the commission may continue with proceedings pursuant to s. 112.324.

(c) For purposes of this section, an error or omission is immaterial, inconsequential, or de minimis if the original filing provided sufficient information for the public to identify potential conflicts of interest. However, failure to certify completion of annual ethics training required under s. 112.3142 does not constitute an immaterial, inconsequential, or de minimis error or omission.

(11)(a) An individual required to file a disclosure pursuant to this section may have the disclosure prepared by an attorney in good standing with The Florida Bar or by a certified public accountant licensed under chapter 473. After preparing a disclosure form, the attorney or certified public accountant must sign the form indicating that he or she prepared the form in accordance with this section and the instructions for completing and filing the disclosure forms and that, upon his or her reasonable knowledge and belief, the disclosure is true and correct. If a complaint is filed alleging a failure to disclose information required by this section, the commission shall determine whether the information was disclosed to the attorney or certified public accountant. The failure of the attorney or certified public accountant to accurately transcribe information provided by the individual who is required to file the disclosure does not constitute a violation of this section.

(b) An elected officer or candidate who chooses to use an attorney or a certified public accountant to prepare his or her disclosure may pay for the services of the attorney or certified public accountant from funds in an office account

created pursuant to s. 106.141 or, during a year that the individual qualifies for election to public office, the candidate's campaign depository pursuant to s. 106.021.

(12) The commission shall adopt rules and forms specifying how a state officer, local officer, or specified state employee may amend his or her statement of financial interests to report information that was not included on the form as originally filed. If the amendment is the subject of a complaint filed under this part, the commission and the proper disciplinary official or body shall consider as a mitigating factor when considering appropriate disciplinary action the fact that the amendment was filed before any complaint or other inquiry or proceeding, while recognizing that the public was deprived of access to information to which it was entitled.

History.—s. 5, ch. 74-177; ss. 2, 6, ch. 75-196; s. 2, ch. 76-18; s. 1, ch. 77-174; s. 63, ch. 77-175; s. 54, ch. 79-40; s. 3, ch. 82-98; s. 2, ch. 83-128; ss. 2, 5, ch. 83-282; s. 3, ch. 84-318; s. 1, ch. 88-316; s. 1, ch. 90-169; s. 5, ch. 90-502; s. 27, ch. 91-46; s. 6, ch. 91-85; s. 6, ch. 91-292; ss. 5, 13, ch. 94-277; s. 3, ch. 94-340; s. 1410, ch. 95-147; s. 14, ch. 96-410; s. 31, ch. 97-286; s. 17, ch. 99-399; s. 2, ch. 2000-161; s. 3, ch. 2000-243; s. 31, ch. 2000-258; s. 23, ch. 2000-372; s. 3, ch. 2001-91; s. 2, ch. 2001-282; s. 128, ch. 2003-261; s. 4, ch. 2006-275; s. 12, ch. 2007-217; s. 7, ch. 2008-6; s. 9, ch. 2013-36; s. 4, ch. 2014-183.

112.31455 Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.—

(1) Before referring any unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) to the Department of Financial Services, the commission shall attempt to determine whether the individual owing such a fine is a current public officer or current public employee. If so, the commission may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, or special district of the total amount of any fine owed to the commission by such individual.

(a) After receipt and verification of the notice from the commission, the Chief Financial Officer or the governing body of the county, municipality, or special district shall begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the commission until the fine is satisfied.

(b) The Chief Financial Officer or the governing body of the county, municipality, or special district may retain an amount of each withheld payment, as provided in s. 77.0305, to cover the administrative costs incurred under this section.

(2) If the commission determines that the individual who is the subject of an unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) is no longer a public officer or public employee or if the commission is unable to determine whether the individual is a current public officer or public employee, the commission may, 6 months after the order becomes final, seek garnishment of any wages to satisfy the amount of the fine, or any unpaid portion thereof, pursuant to chapter 77. Upon recording the order imposing the fine with the clerk of the circuit court, the order shall be deemed a judgment for purposes of garnishment pursuant to chapter 77.

(3) The commission may refer unpaid fines to the appropriate collection agency, as directed by the Chief Financial Officer, to utilize any collection methods provided by law. Except as expressly limited by this section, any other collection methods authorized by law are allowed.

(4) Action may be taken to collect any unpaid fine imposed by ss. 112.3144 and 112.3145 within 20 years after the date the final order is rendered.

History.—s. 10, ch. 2013-36; s. 10, ch. 2015-2.

112.3146 Public records.—The statements required by ss. 112.313, 112.3145, 112.3148, and 112.3149 shall be public records within the meaning of s. 119.01.

History.—s. 6, ch. 74-177; s. 6, ch. 90-502; s. 7, ch. 91-85.

112.3147 Forms.—Except as otherwise provided, all information required to be furnished by ss. 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149 and by s. 8, Art. II of the State Constitution shall be on forms prescribed by the Commission on Ethics.

History.—s. 7, ch. 74-177; s. 3, ch. 76-18; s. 7, ch. 90-502; s. 8, ch. 91-85; s. 12, ch. 2000-243; s. 5, ch. 2006-275; s. 11, ch. 2013-36.

112.3148 Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.—

(1) The provisions of this section do not apply to gifts solicited or accepted by a reporting individual or procurement employee from a relative.

(2) As used in this section:

(a) "Immediate family" means any parent, spouse, child, or sibling.

(b)1. "Lobbyist" means any natural person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decisionmaking of a reporting individual or procurement employee or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency.

2. With respect to an agency that has established by rule, ordinance, or law a registration process for persons seeking to influence decisionmaking or to encourage the passage, defeat, or modification of any proposal or recommendation by such agency or an employee or official of the agency, the term "lobbyist" includes only a person who is required to be registered as a lobbyist in accordance with such rule, ordinance, or law or who was during the preceding 12 months required to be registered as a lobbyist in accordance with such rule, ordinance, or law. At a minimum, such a registration system must require the registration of, or must designate, persons as "lobbyists" who engage in the same activities as require registration to lobby the Legislature pursuant to s. 11.045.

(c) "Person" includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(d) "Reporting individual" means any individual, including a candidate upon qualifying, who is required by law, pursuant to s. 8, Art. II of the State Constitution or s. 112.3145, to file full or limited public disclosure of his or her financial interests or any individual who has been elected to, but has yet to officially assume the responsibilities of, public office. For purposes of implementing this section, the "agency" of a reporting individual who is not an officer or employee in public service is the agency to which the candidate seeks election, or in the case of an individual elected to but yet to formally take office, the agency in which the individual has been elected to serve.

(e) "Procurement employee" means any employee of an officer, department, board, commission, council, or agency of the executive branch or judicial branch of state government who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, if the cost of such services or commodities exceeds or is expected to exceed $10,000 in any fiscal year.

(f) "Vendor" means a business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services.

(3) A reporting individual or procurement employee is prohibited from soliciting any gift from a vendor doing business with the reporting individual's or procurement employee's agency, a political committee as defined in s. 106.011, or a lobbyist who lobbies the reporting individual's or procurement employee's agency, or the partner, firm, employer, or principal of such lobbyist, where such gift is for the personal benefit of the reporting individual or procurement employee, another reporting individual or procurement employee, or any member of the immediate family of a reporting individual or procurement employee.

(4) A reporting individual or procurement employee or any other person on his or her behalf is prohibited from knowingly accepting, directly or indirectly, a gift from a vendor doing business with the reporting individual's or procurement employee's agency, a political committee as defined in s. 106.011, or a lobbyist who lobbies the reporting individual's or procurement employee's agency, or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of $100; however, such a gift may be accepted by such person on behalf of a governmental entity or a charitable organization. If the gift is accepted on behalf of a governmental entity or charitable organization, the person receiving the gift shall not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift.

(5)(a) A vendor doing business with the reporting individual's or procurement employee's agency; a political committee as defined in s. 106.011; a lobbyist who lobbies a reporting individual's or procurement employee's agency; the partner, firm, employer, or principal of a lobbyist; or another on behalf of the lobbyist or partner, firm, principal, or employer of the lobbyist is prohibited from giving, either directly or indirectly, a gift that has a value in excess of $100 to the reporting individual or procurement employee or any other person on his or her behalf; however, such person may give a gift having a value in excess of $100 to a reporting individual or procurement employee if the gift is intended to be transferred to a governmental entity or a charitable organization.

(b) However, a person who is regulated by this subsection, who is not regulated by subsection (6), and who makes, or directs another to make, an individual gift having a value in excess of $25, but not in excess of $100, other than a gift that the donor knows will be accepted on behalf of a governmental entity or charitable organization, must file a report on the last day of each calendar quarter for the previous calendar quarter in which a reportable gift is made. The report shall be filed with the Commission on Ethics, except with respect to gifts to reporting individuals of the legislative branch, in which case the report shall be filed with the Office of Legislative Services. The report must contain a description of each gift, the monetary value thereof, the name and address of the person making such gift, the name and address of the recipient of the gift, and the date such gift is given. In addition, if a gift is made which requires the filing of a report under this subsection, the donor must notify the intended recipient at the time the gift is made that the donor, or another on his or her behalf, will report the gift under this subsection. Under this paragraph, a gift need not be reported by more than one person or entity.

(6)(a) Notwithstanding the provisions of subsection (5), an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, a county, a municipality, an airport authority, or a school board may give, either directly or indirectly, a gift having a value in excess of $100 to any reporting individual or procurement employee if a public purpose can be shown for the gift; and a direct-support organization specifically authorized by law to support a governmental entity may give such a gift to a reporting individual or procurement employee who is an officer or employee of such governmental entity.

(b) Notwithstanding the provisions of subsection (4), a reporting individual or procurement employee may accept a gift having a value in excess of $100 from an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, a county, a municipality, an airport authority, or a school board if a public purpose can be shown for the gift; and a reporting individual or procurement employee who is an officer or employee of a governmental entity supported by a direct-support organization specifically authorized by law to support such governmental entity may accept such a gift from such direct-support organization.

(c) No later than March 1 of each year, each governmental entity or direct-support organization specifically authorized by law to support a governmental entity which has given a gift to a reporting individual or procurement employee under paragraph (a) shall provide the reporting individual or procurement employee with a statement of each gift having a value in excess of $100 given to such reporting individual or procurement employee by the governmental entity or direct-support organization during the preceding calendar year. Such report shall contain a description of each gift, the date on which the gift was given, and the value of the total gifts given by the governmental entity or direct-support organization to the reporting individual or procurement employee during the calendar year for which the report is made. A governmental entity may provide a single report to the reporting individual or procurement employee of gifts provided by the governmental entity and any direct-support organization specifically authorized by law to support such governmental entity.

(d) No later than July 1 of each year, each reporting individual or procurement employee shall file a statement listing each gift having a value in excess of $100 received by the reporting individual or procurement employee, either directly or indirectly, from a governmental entity or a direct-support organization specifically authorized by law to support a governmental entity. The statement shall list the name of the person providing the gift, a description of the gift, the date or dates on which the gift was given, and the value of the total gifts given during the calendar year for which the report is made. The reporting individual or procurement employee shall attach to the statement any report received by him or her in accordance with paragraph (c), which report shall become a public record when filed with

the statement of the reporting individual or procurement employee. The reporting individual or procurement employee may explain any differences between the report of the reporting individual or procurement employee and the attached reports. The annual report filed by a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual report filed by a procurement employee shall be filed with the Commission on Ethics. The report filed by a reporting individual or procurement employee who left office or employment during the calendar year covered by the report shall be filed by July 1 of the year after leaving office or employment at the same location as his or her final financial disclosure statement or, in the case of a former procurement employee, with the Commission on Ethics.

(7)(a) The value of a gift provided to a reporting individual or procurement employee shall be determined using actual cost to the donor, less taxes and gratuities, except as otherwise provided in this subsection, and, with respect to personal services provided by the donor, the reasonable and customary charge regularly charged for such service in the community in which the service is provided shall be used. If additional expenses are required as a condition precedent to eligibility of the donor to purchase or provide a gift and such expenses are primarily for the benefit of the donor or are of a charitable nature, such expenses shall not be included in determining the value of the gift.

(b) Compensation provided by the donee to the donor, if provided within 90 days after receipt of the gift, shall be deducted from the value of the gift in determining the value of the gift.

(c) If the actual gift value attributable to individual participants at an event cannot be determined, the total costs shall be prorated among all invited persons, whether or not they are reporting individuals or procurement employees.

(d) Transportation shall be valued on a round-trip basis unless only one-way transportation is provided. Round-trip transportation expenses shall be considered a single gift. Transportation provided in a private conveyance shall be given the same value as transportation provided in a comparable commercial conveyance.

(e) Lodging provided on consecutive days shall be considered a single gift. Lodging in a private residence shall be valued at the per diem rate provided in s. 112.061(6)(a)1. less the meal allowance rate provided in s. 112.061(6)(b).

(f) Food and beverages which are not consumed at a single sitting or meal and which are provided on the same calendar day shall be considered a single gift, and the total value of all food and beverages provided on that date shall be considered the value of the gift. Food and beverage consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

(g) Membership dues paid to the same organization during any 12-month period shall be considered a single gift.

(h) Entrance fees, admission fees, or tickets shall be valued on the face value of the ticket or fee, or on a daily or per event basis, whichever is greater.

(i) Except as otherwise specified in this section, a gift shall be valued on a per occurrence basis.

(j) The value of a gift provided to several individuals may be attributed on a pro rata basis among all of the individuals. If the gift is food, beverage, entertainment, or similar items, provided at a function for more than 10 people, the value of the gift to each individual shall be the total value of the items provided divided by the number of persons invited to the function, unless the items are purchased on a per person basis, in which case the value of the gift to each person is the per person cost.

(k) The value of a gift of an admission ticket shall not include that portion of the cost which represents a charitable contribution, if the gift is provided by the charitable organization.

(8)(a) Each reporting individual or procurement employee shall file a statement with the Commission on Ethics not later than the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of $100 in value, if any, accepted by him or her, for which compensation was not provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to $100 or less, except the following:

1. Gifts from relatives.
2. Gifts prohibited by subsection (4) or s. 112.313(4).
3. Gifts otherwise required to be disclosed by this section.

(b) The statement shall include:

1. A description of the gift, the monetary value of the gift, the name and address of the person making the gift, and the dates thereof. If any of these facts, other than the gift description, are unknown or not applicable, the report shall so state.

2. A copy of any receipt for such gift provided to the reporting individual or procurement employee by the donor.

(c) The statement may include an explanation of any differences between the reporting individual's or procurement employee's statement and the receipt provided by the donor.

(d) The reporting individual's or procurement employee's statement shall be sworn to by such person as being a true, accurate, and total listing of all such gifts.

(e) Statements must be filed not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company, which bears a date on or before the due date constitutes proof of mailing in a timely manner.

(f) If a reporting individual or procurement employee has not received any gifts described in paragraph (a) during a calendar quarter, he or she is not required to file a statement under this subsection for that calendar quarter.

(9) A person, other than a lobbyist regulated under s. 11.045, who violates the provisions of subsection (5) commits a noncriminal infraction, punishable by a fine of not more than $5,000 and by a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the reporting individual or procurement employee to which the gift was given in violation of subsection (5), for a period of not more than 24 months. The state attorney, or an agency, if otherwise authorized, may initiate an action to impose or recover a fine authorized under this section or to impose or enforce a limitation on lobbying provided in this section.

(10) A member of the Legislature may request an advisory opinion from the general counsel of the house of which he or she is a member as to the application of this section to a specific situation. The general counsel shall issue the opinion within 10 days after receiving the request. The member of the Legislature may reasonably rely on such opinion.

History.—s. 2, ch. 89-380; s. 8, ch. 90-502; s. 9, ch. 91-85; s. 7, ch. 91-292; s. 6, ch. 94-277; s. 1411, ch. 95-147; s. 2, ch. 96-328; s. 8, ch. 98-136; s. 4, ch. 2000-243; s. 32, ch. 2000-258; s. 8, ch. 2003-159; s. 6, ch. 2006-275; s. 4, ch. 2012-51; s. 12, ch. 2013-36; s. 29, ch. 2013-37; s. 3, ch. 2013-235.

112.31485 Prohibition on gifts involving political committees.—

(1)(a) For purposes of this section, the term "gift" means any purchase, payment, distribution, loan, advance, transfer of funds, or disbursement of money or anything of value that is not primarily related to contributions, expenditures, or other political activities authorized pursuant to chapter 106.

(b) For purposes of this section, the term "immediate family" means any parent, spouse, child, or sibling.

(2)(a) A reporting individual or procurement employee or a member of his or her immediate family is prohibited from soliciting or knowingly accepting, directly or indirectly, any gift from a political committee.

(b) A political committee is prohibited from giving, directly or indirectly, any gift to a reporting individual or procurement employee or a member of his or her immediate family.

(3) Any person who violates this section is subject to a civil penalty equal to three times the amount of the gift. Such penalty is in addition to the penalties provided in s. 112.317 and shall be paid to the General Revenue Fund of the state. A reporting individual or procurement employee or a member of his or her immediate family who violates this section is personally liable for payment of the treble penalty. Any agent or person acting on behalf of a political committee who gives a prohibited gift is personally liable for payment of the treble penalty.

History.—s. 13, ch. 2013-36.

112.3149 Solicitation and disclosure of honoraria.—

(1) As used in this section:

(a) "Honorarium" means a payment of money or anything of value, directly or indirectly, to a reporting individual or procurement employee, or to any other person on his or her behalf, as consideration for:

1. A speech, address, oration, or other oral presentation by the reporting individual or procurement employee, regardless of whether presented in person, recorded, or broadcast over the media.

2. A writing by the reporting individual or procurement employee, other than a book, which has been or is intended to be published.

The term "honorarium" does not include the payment for services related to employment held outside the reporting individual's or procurement employee's public position which resulted in the person becoming a reporting individual or procurement employee, any ordinary payment or salary received in consideration for services related to the reporting individual's or procurement employee's public duties, a campaign contribution reported pursuant to chapter 106, or the payment or provision of actual and reasonable transportation, lodging, and food and beverage expenses related to the honorarium event, including any event or meeting registration fee, for a reporting individual or procurement employee and spouse.

(b) "Person" includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(c) "Reporting individual" means any individual who is required by law, pursuant to s. 8, Art. II of the State Constitution or s. 112.3145, to file a full or limited public disclosure of his or her financial interests.

(d)1. "Lobbyist" means any natural person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decisionmaking of a reporting individual or procurement employee or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency.

2. With respect to an agency that has established by rule, ordinance, or law a registration process for persons seeking to influence decisionmaking or to encourage the passage, defeat, or modification of any proposal or recommendation by such agency or an employee or official of the agency, the term "lobbyist" includes only a person who is required to be registered as a lobbyist in accordance with such rule, ordinance, or law or who was during the preceding 12 months required to be registered as a lobbyist in accordance with such rule, ordinance, or law. At a minimum, such a registration system must require the registration of, or must designate, persons as "lobbyists" who engage in the same activities as require registration to lobby the Legislature pursuant to s. 11.045.

(e) "Procurement employee" means any employee of an officer, department, board, commission, council, or agency of the executive branch or judicial branch of state government who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, if the cost of such services or commodities exceeds $10,000 in any fiscal year.

(f) "Vendor" means a business entity doing business directly with an agency, such as renting, leasing, or selling any realty, goods, or services.

(2) A reporting individual or procurement employee is prohibited from soliciting an honorarium which is related to the reporting individual's or procurement employee's public office or duties.

(3) A reporting individual or procurement employee is prohibited from knowingly accepting an honorarium from a political committee, as defined in s. 106.011, from a vendor doing business with the reporting individual's or procurement employee's agency, from a lobbyist who lobbies the reporting individual's or procurement employee's agency, or from the employer, principal, partner, or firm of such a lobbyist.

(4) A political committee, as defined in s. 106.011, a vendor doing business with the reporting individual's or procurement employee's agency, a lobbyist who lobbies a reporting individual's or procurement employee's agency, or the employer, principal, partner, or firm of such a lobbyist is prohibited from giving an honorarium to a reporting individual or procurement employee.

(5) A person who is prohibited by subsection (4) from paying an honorarium to a reporting individual or procurement employee, but who provides a reporting individual or procurement employee, or a reporting individual or procurement employee and his or her spouse, with expenses related to an honorarium event, shall provide to the

reporting individual or procurement employee, no later than 60 days after the honorarium event, a statement listing the name and address of the person providing the expenses, a description of the expenses provided each day, and the total value of the expenses provided for the honorarium event.

(6) A reporting individual or procurement employee who receives payment or provision of expenses related to any honorarium event from a person who is prohibited by subsection (4) from paying an honorarium to a reporting individual or procurement employee shall publicly disclose on an annual statement the name, address, and affiliation of the person paying or providing the expenses; the amount of the honorarium expenses; the date of the honorarium event; a description of the expenses paid or provided on each day of the honorarium event; and the total value of the expenses provided to the reporting individual or procurement employee in connection with the honorarium event. The annual statement of honorarium expenses shall be filed by July 1 of each year for those expenses received during the previous calendar year. The reporting individual or procurement employee shall attach to the annual statement a copy of each statement received by him or her in accordance with subsection (5) regarding honorarium expenses paid or provided during the calendar year for which the annual statement is filed. The attached statement shall become a public record upon the filing of the annual report. The annual statement of a reporting individual shall be filed with the financial disclosure statement required by either s. 8, Art. II of the State Constitution or s. 112.3145, as applicable to the reporting individual. The annual statement of a procurement employee shall be filed with the Commission on Ethics. The statement filed by a reporting individual or procurement employee who left office or employment during the calendar year covered by the statement shall be filed by July 1 of the year after leaving office or employment at the same location as his or her final financial disclosure statement or, in the case of a former procurement employee, with the Commission on Ethics.

(7) A person, other than a lobbyist regulated under s. 11.045, who violates the provisions of subsection (4) commits a noncriminal infraction, punishable by a fine of not more than $5,000 and by a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the reporting individual or procurement employee to whom the honorarium was paid in violation of subsection (4), for a period of not more than 24 months. The state attorney, or an agency, if otherwise authorized, may initiate an action to impose or recover a fine authorized under this section or to impose or enforce a limitation on lobbying provided in this section.

(8) A member of the Legislature may request an advisory opinion from the general counsel of the house of which he or she is a member as to the application of this section to a specific situation. The general counsel shall issue the opinion within 10 days after receiving the request. The member of the Legislature may reasonably rely on such opinion.

History.—s. 9, ch. 90-502; s. 7, ch. 94-277; s. 1412, ch. 95-147; s. 5, ch. 2000-243; s. 33, ch. 2000-258; s. 7, ch. 2006-275; s. 14, ch. 2013-36; s. 30, ch. 2013-37.

112.3151 Extensions of time for filing disclosure.—The Commission on Ethics may grant, for good cause, on an individual basis, an extension of time for filing of any disclosure required under the provisions of this part or s. 8(a), Art. II of the State Constitution. However, no extension may extend the filing deadline to a date within 20 days before a primary election. The commission may delegate to its chair the authority to grant any extension of time which the commission itself may grant under this section; however, no extension of time granted by the chair may exceed 45 days. Extensions of time granted under this section shall be exempt from the provisions of chapter 120.

History.—s. 4, ch. 83-282; s. 700, ch. 95-147.

112.316 Construction.—It is not the intent of this part, nor shall it be construed, to prevent any officer or employee of a state agency or county, city, or other political subdivision of the state or any legislator or legislative employee from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge by such officer, employee, legislator, or legislative employee of his or her duties to the state or the county, city, or other political subdivision of the state involved.

History.—s. 6, ch. 67-469; s. 2, ch. 69-335; s. 701, ch. 95-147.

112.317 Penalties.—

(1) Any violation of this part, including, but not limited to, failure to file disclosures required by this part or violation of any standard of conduct imposed by this part, or any violation of s. 8, Art. II of the State Constitution, in addition to any criminal penalty or other civil penalty involved, under applicable constitutional and statutory procedures, constitutes grounds for, and may be punished by, one or more of the following:

(a) In the case of a public officer:

1. Impeachment.
2. Removal from office.
3. Suspension from office.
4. Public censure and reprimand.
5. Forfeiture of no more than one-third of his or her salary per month for no more than 12 months.
6. A civil penalty not to exceed $10,000.
7. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of which the public officer was a member or to the General Revenue Fund.

(b) In the case of an employee or a person designated as a public officer by this part who otherwise would be deemed to be an employee:

1. Dismissal from employment.
2. Suspension from employment for not more than 90 days without pay.
3. Demotion.
4. Reduction in his or her salary level.
5. Forfeiture of no more than one-third salary per month for no more than 12 months.
6. A civil penalty not to exceed $10,000.
7. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency by which the public employee was employed, or of which the officer was deemed to be an employee, or to the General Revenue Fund.
8. Public censure and reprimand.

(c) In the case of a candidate who violates this part or s. 8(a) and (i), Art. II of the State Constitution:

1. Disqualification from being on the ballot.
2. Public censure.
3. Reprimand.
4. A civil penalty not to exceed $10,000.

(d) In the case of a former public officer or employee who has violated a provision applicable to former officers or employees or whose violation occurred before the officer's or employee's leaving public office or employment:

1. Public censure and reprimand.
2. A civil penalty not to exceed $10,000.
3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the public officer or employee or to the General Revenue Fund.

(e) In the case of a person who is subject to the standards of this part, other than a lobbyist or lobbying firm under s. 112.3215 for a violation of s. 112.3215, but who is not a public officer or employee:

1. Public censure and reprimand.
2. A civil penalty not to exceed $10,000.
3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the person or to the General Revenue Fund.

(2) In any case in which the commission finds a violation of this part or of s. 8, Art. II of the State Constitution and the proper disciplinary official or body under s. 112.324 imposes a civil penalty or restitution penalty, the Attorney General shall bring a civil action to recover such penalty. No defense may be raised in the civil action to enforce the civil penalty or order of restitution that could have been raised by judicial review of the administrative findings and

recommendations of the commission by certiorari to the district court of appeal. The Attorney General shall collect any costs, attorney fees, expert witness fees, or other costs of collection incurred in bringing the action.

(3) The penalties prescribed in this part shall not be construed to limit or to conflict with:

(a) The power of either house of the Legislature to discipline its own members or impeach a public officer.

(b) The power of agencies to discipline officers or employees.

(4) Any violation of this part or of s. 8, Art. II of the State Constitution by a public officer constitutes malfeasance, misfeasance, or neglect of duty in office within the meaning of s. 7, Art. IV of the State Constitution.

(5) By order of the Governor, upon recommendation of the commission, any elected municipal officer who violates this part or s. 8, Art. II of the State Constitution may be suspended from office and the office filled by appointment for the period of suspension. The suspended officer may at any time before removal be reinstated by the Governor. The Senate may, in proceedings prescribed by law, remove from office, or reinstate, the suspended official, and for such purpose the Senate may be convened in special session by its President or by a majority of its membership.

(6) In any case in which the commission finds probable cause to believe that a complainant has committed perjury in regard to any document filed with, or any testimony given before, the commission, it shall refer such evidence to the appropriate law enforcement agency for prosecution and taxation of costs.

(7) In any case in which the commission determines that a person has filed a complaint against a public officer or employee with a malicious intent to injure the reputation of such officer or employee by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this part, the complainant shall be liable for costs plus reasonable attorney fees incurred in the defense of the person complained against, including the costs and reasonable attorney fees incurred in proving entitlement to and the amount of costs and fees. If the complainant fails to pay such costs and fees voluntarily within 30 days following such finding by the commission, the commission shall forward such information to the Department of Legal Affairs, which shall bring a civil action in a court of competent jurisdiction to recover the amount of such costs and fees awarded by the commission.

History.—s. 7, ch. 67-469; s. 1, ch. 70-144; s. 2, ch. 74-176; s. 8, ch. 74-177; s. 2, ch. 75-199; s. 7, ch. 75-208; s. 5, ch. 82-98; s. 10, ch. 90-502; s. 10, ch. 91-85; s. 8, ch. 94-277; s. 1413, ch. 95-147; s. 1, ch. 95-354; s. 13, ch. 2000-151; s. 8, ch. 2006-275; s. 2, ch. 2009-126; s. 15, ch. 2013-36.

112.3173 Felonies involving breach of public trust and other specified offenses by public officers and employees; forfeiture of retirement benefits.—

(1) INTENT.—It is the intent of the Legislature to implement the provisions of s. 8(d), Art. II of the State Constitution.

(2) DEFINITIONS.—As used in this section, unless the context otherwise requires, the term:

(a) "Conviction" and "convicted" mean an adjudication of guilt by a court of competent jurisdiction; a plea of guilty or of nolo contendere; a jury verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation; or a conviction by the Senate of an impeachable offense.

(b) "Court" means any state or federal court of competent jurisdiction which is exercising its jurisdiction to consider a proceeding involving the alleged commission of a specified offense.

(c) "Public officer or employee" means an officer or employee of any public body, political subdivision, or public instrumentality within the state.

(d) "Public retirement system" means any retirement system or plan to which the provisions of part VII of this chapter apply.

(e) "Specified offense" means:

1. The committing, aiding, or abetting of an embezzlement of public funds;
2. The committing, aiding, or abetting of any theft by a public officer or employee from his or her employer;
3. Bribery in connection with the employment of a public officer or employee;
4. Any felony specified in chapter 838, except ss. 838.15 and 838.16;
5. The committing of an impeachable offense;
6. The committing of any felony by a public officer or employee who, willfully and with intent to defraud the public or the public agency for which the public officer or employee acts or in which he or she is employed of the right

to receive the faithful performance of his or her duty as a public officer or employee, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or herself or for some other person through the use or attempted use of the power, rights, privileges, duties, or position of his or her public office or employment position; or

7. The committing on or after October 1, 2008, of any felony defined in s. 800.04 against a victim younger than 16 years of age, or any felony defined in chapter 794 against a victim younger than 18 years of age, by a public officer or employee through the use or attempted use of power, rights, privileges, duties, or position of his or her public office or employment position.

(3) FORFEITURE.—Any public officer or employee who is convicted of a specified offense committed prior to retirement, or whose office or employment is terminated by reason of his or her admitted commission, aid, or abetment of a specified offense, shall forfeit all rights and benefits under any public retirement system of which he or she is a member, except for the return of his or her accumulated contributions as of the date of termination.

(4) NOTICE.—

(a) The clerk of a court in which a proceeding involving a specified offense is being conducted against a public officer or employee shall furnish notice of the proceeding to the Commission on Ethics after the state attorney advises the clerk that the defendant is a public officer or employee and that the defendant is alleged to have committed a specified offense. Such notice is sufficient if it is in the form of a copy of the indictment, information, or other document containing the charges. In addition, if a verdict of guilty is returned by a jury or by the court trying the case without a jury, or a plea of guilty or of nolo contendere is entered in the court by the public officer or employee, the clerk shall furnish a copy thereof to the Commission on Ethics.

(b) The Secretary of the Senate shall furnish to the Commission on Ethics notice of any proceeding of impeachment being conducted by the Senate. In addition, if such trial results in conviction, the Secretary of the Senate shall furnish notice of the conviction to the commission.

(c) The employer of any member whose office or employment is terminated by reason of his or her admitted commission, aid, or abetment of a specified offense shall forward notice thereof to the commission.

(d) The Commission on Ethics shall forward any notice and any other document received by it pursuant to this subsection to the governing body of the public retirement system of which the public officer or employee is a member or from which the public officer or employee may be entitled to receive a benefit. When called on by the Commission on Ethics, the Department of Management Services shall assist the commission in identifying the appropriate public retirement system.

(5) FORFEITURE DETERMINATION.—

(a) Whenever the official or board responsible for paying benefits under a public retirement system receives notice pursuant to subsection (4), or otherwise has reason to believe that the rights and privileges of any person under such system are required to be forfeited under this section, such official or board shall give notice and hold a hearing in accordance with chapter 120 for the purpose of determining whether such rights and privileges are required to be forfeited. If the official or board determines that such rights and privileges are required to be forfeited, the official or board shall order such rights and privileges forfeited.

(b) Any order of forfeiture of retirement system rights and privileges is appealable to the district court of appeal.

(c) The payment of retirement benefits ordered forfeited, except payments drawn from nonemployer contributions to the retiree's account, shall be stayed pending an appeal as to a felony conviction. If such conviction is reversed, no retirement benefits shall be forfeited. If such conviction is affirmed, retirement benefits shall be forfeited as ordered in this section.

(d) If any person's rights and privileges under a public retirement system are forfeited pursuant to this section and that person has received benefits from the system in excess of his or her accumulated contributions, such person shall pay back to the system the amount of the benefits received in excess of his or her accumulated contributions. If he or she fails to pay back such amount, the official or board responsible for paying benefits pursuant to the retirement system or pension plan may bring an action in circuit court to recover such amount, plus court costs.

(6) FORFEITURE NONEXCLUSIVE.—

(a) The forfeiture of retirement rights and privileges pursuant to this section is supplemental to any other forfeiture requirements provided by law.

(b) This section does not preclude or otherwise limit the Commission on Ethics in conducting under authority of other law an independent investigation of a complaint which it may receive against a public officer or employee involving a specified offense.

History.—s. 14, ch. 84-266; s. 4, ch. 90-301; s. 44, ch. 92-279; s. 55, ch. 92-326; s. 22, ch. 94-249; s. 1414, ch. 95-147; s. 13, ch. 99-255; s. 3, ch. 2008-108; s. 14, ch. 2012-100.

112.3175 Remedies; contracts voidable.—

(1) Any contract that has been executed in violation of this part is voidable:

(a) By any party to the contract.

(b) In any circuit court, by any appropriate action, by:

1. The commission.

2. The Attorney General.

3. Any citizen materially affected by the contract and residing in the jurisdiction represented by the officer or agency entering into such contract.

(2) Any contract that has been executed in violation of this part is presumed void with respect to any former employee or former public official of a state agency and is voidable with respect to any private sector third party who employs or retains in any capacity such former agency employee or former public official.

History.—s. 8, ch. 75-208; s. 2, ch. 2001-266.

112.3185 Additional standards for state agency employees.—

(1) For the purposes of this section:

(a) "Contractual services" shall be defined as set forth in chapter 287.

(b) "Agency" means any state officer, department, board, commission, or council of the executive or judicial branch of state government and includes the Public Service Commission.

(2) An agency employee who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services may not become or be, while an agency employee, the employee of a person contracting with the agency by whom the employee is employed.

(3) An agency employee may not, after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract in which the agency employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, or investigation while an officer or employee. When the agency employee's position is eliminated and his or her duties are performed by the business entity, this subsection does not prohibit him or her from employment or contractual relationship with the business entity if the employee's participation in the contract was limited to recommendation, rendering of advice, or investigation and if the agency head determines that the best interests of the state will be served thereby and provides prior written approval for the particular employee.

(4) An agency employee may not, within 2 years after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract for contractual services which was within his or her responsibility while an employee. If the agency employee's position is eliminated and his or her duties are performed by the business entity, this subsection may be waived by the agency head through prior written approval for a particular employee if the agency head determines that the best interests of the state will be served thereby.

(5) The sum of money paid to a former agency employee during the first year after the cessation of his or her responsibilities, by the agency with whom he or she was employed, for contractual services provided to the agency, shall not exceed the annual salary received on the date of cessation of his or her responsibilities. This subsection may be waived by the agency head for a particular contract if the agency head determines that such waiver will result in significant time or cost savings for the state.

(6) An agency employee acting in an official capacity may not directly or indirectly procure contractual services for his or her own agency from any business entity of which a relative is an officer, partner, director, or proprietor or in which the officer or employee or his or her spouse or child, or any combination of them, has a material interest.

(7) A violation of any provision of this section is punishable in accordance with s. 112.317.

(8) This section is not applicable to any employee of the Public Service Commission who was so employed on or before December 31, 1994.

History.—s. 6, ch. 82-196; s. 32, ch. 83-217; s. 2, ch. 90-268; s. 11, ch. 90-502; s. 9, ch. 94-277; s. 1415, ch. 95-147; s. 9, ch. 2006-275.

112.3187 Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.—

(1) SHORT TITLE.—Sections 112.3187-112.31895 may be cited as the "Whistle-blower's Act."

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against an employee who reports to an appropriate agency violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public's health, safety, or welfare. It is further the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee.

(3) DEFINITIONS.—As used in this act, unless otherwise specified, the following words or terms shall have the meanings indicated:

(a) "Agency" means any state, regional, county, local, or municipal government entity, whether executive, judicial, or legislative; any official, officer, department, division, bureau, commission, authority, or political subdivision therein; or any public school, community college, or state university.

(b) "Employee" means a person who performs services for, and under the control and direction of, or contracts with, an agency or independent contractor for wages or other remuneration.

(c) "Adverse personnel action" means the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by an agency or independent contractor.

(d) "Independent contractor" means a person, other than an agency, engaged in any business and who enters into a contract, including a provider agreement, with an agency.

(e) "Gross mismanagement" means a continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a substantial adverse economic impact.

(4) ACTIONS PROHIBITED.—

(a) An agency or independent contractor shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this section.

(b) An agency or independent contractor shall not take any adverse action that affects the rights or interests of a person in retaliation for the person's disclosure of information under this section.

(c) The provisions of this subsection shall not be applicable when an employee or person discloses information known by the employee or person to be false.

(5) NATURE OF INFORMATION DISCLOSED.—The information disclosed under this section must include:

(a) Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor which creates and presents a substantial and specific danger to the public's health, safety, or welfare.

(b) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.

(6) TO WHOM INFORMATION DISCLOSED.—The information disclosed under this section must be disclosed to any agency or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act, including, but not limited to, the Office of the Chief Inspector General, an agency inspector general or

the employee designated as agency inspector general under s. 112.3189(1) or inspectors general under s. 20.055, the Florida Commission on Human Relations, and the whistle-blower's hotline created under s. 112.3189. However, for disclosures concerning a local governmental entity, including any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing, the information must be disclosed to a chief executive officer as defined in s. 447.203(9) or other appropriate local official.

(7) EMPLOYEES AND PERSONS PROTECTED.—This section protects employees and persons who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by any agency or federal government entity; who refuse to participate in any adverse action prohibited by this section; or who initiate a complaint through the whistle-blower's hotline or the hotline of the Medicaid Fraud Control Unit of the Department of Legal Affairs; or employees who file any written complaint to their supervisory officials or employees who submit a complaint to the Chief Inspector General in the Executive Office of the Governor, to the employee designated as agency inspector general under s. 112.3189(1), or to the Florida Commission on Human Relations. The provisions of this section may not be used by a person while he or she is under the care, custody, or control of the state correctional system or, after release from the care, custody, or control of the state correctional system, with respect to circumstances that occurred during any period of incarceration. No remedy or other protection under ss. 112.3187-112.31895 applies to any person who has committed or intentionally participated in committing the violation or suspected violation for which protection under ss. 112.3187-112.31895 is being sought.

(8) REMEDIES.—

(a) Any employee of or applicant for employment with any state agency, as the term "state agency" is defined in s. 216.011, who is discharged, disciplined, or subjected to other adverse personnel action, or denied employment, because he or she engaged in an activity protected by this section may file a complaint, which complaint must be made in accordance with s. 112.31895. Upon receipt of notice from the Florida Commission on Human Relations of termination of the investigation, the complainant may elect to pursue the administrative remedy available under s. 112.31895 or bring a civil action within 180 days after receipt of the notice.

(b) Within 60 days after the action prohibited by this section, any local public employee protected by this section may file a complaint with the appropriate local governmental authority, if that authority has established by ordinance an administrative procedure for handling such complaints or has contracted with the Division of Administrative Hearings under s. 120.65 to conduct hearings under this section. The administrative procedure created by ordinance must provide for the complaint to be heard by a panel of impartial persons appointed by the appropriate local governmental authority. Upon hearing the complaint, the panel must make findings of fact and conclusions of law for a final decision by the local governmental authority. Within 180 days after entry of a final decision by the local governmental authority, the public employee who filed the complaint may bring a civil action in any court of competent jurisdiction. If the local governmental authority has not established an administrative procedure by ordinance or contract, a local public employee may, within 180 days after the action prohibited by this section, bring a civil action in a court of competent jurisdiction. For the purpose of this paragraph, the term "local governmental authority" includes any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing.

(c) Any other person protected by this section may, after exhausting all available contractual or administrative remedies, bring a civil action in any court of competent jurisdiction within 180 days after the action prohibited by this section.

(9) RELIEF.—In any action brought under this section, the relief must include the following:

(a) Reinstatement of the employee to the same position held before the adverse action was commenced, or to an equivalent position or reasonable front pay as alternative relief.

(b) Reinstatement of the employee's full fringe benefits and seniority rights, as appropriate.

(c) Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action.

(d) Payment of reasonable costs, including attorney's fees, to a substantially prevailing employee, or to the prevailing employer if the employee filed a frivolous action in bad faith.

(e) Issuance of an injunction, if appropriate, by a court of competent jurisdiction.

(f) Temporary reinstatement to the employee's former position or to an equivalent position, pending the final outcome on the complaint, if an employee complains of being discharged in retaliation for a protected disclosure and if a court of competent jurisdiction or the Florida Commission on Human Relations, as applicable under s. 112.31895, determines that the disclosure was not made in bad faith or for a wrongful purpose or occurred after an agency's initiation of a personnel action against the employee which includes documentation of the employee's violation of a disciplinary standard or performance deficiency. This paragraph does not apply to an employee of a municipality.

(10) DEFENSES.—It shall be an affirmative defense to any action brought pursuant to this section that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's or person's exercise of rights protected by this section.

(11) EXISTING RIGHTS.—Sections 112.3187-112.31895 do not diminish the rights, privileges, or remedies of an employee under any other law or rule or under any collective bargaining agreement or employment contract; however, the election of remedies in s. 447.401 also applies to whistle-blower actions.

History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 86-233; s. 1, ch. 91-285; s. 12, ch. 92-316; s. 1, ch. 93-57; s. 702, ch. 95-147; s. 1, ch. 95-153; s. 15, ch. 96-410; s. 20, ch. 99-333; s. 2, ch. 2002-400.

[1]112.3188 Confidentiality of information given to the Chief Inspector General, internal auditors, inspectors general, local chief executive officers, or other appropriate local officials.—

(1) The name or identity of any individual who discloses in good faith to the Chief Inspector General or an agency inspector general, a local chief executive officer, or other appropriate local official information that alleges that an employee or agent of an agency or independent contractor:

(a) Has violated or is suspected of having violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare; or

(b) Has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty

may not be disclosed to anyone other than a member of the Chief Inspector General's, agency inspector general's, internal auditor's, local chief executive officer's, or other appropriate local official's staff without the written consent of the individual, unless the Chief Inspector General, internal auditor, agency inspector general, local chief executive officer, or other appropriate local official determines that: the disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime; or the disclosure is unavoidable and absolutely necessary during the course of the audit, evaluation, or investigation.

(2)(a) Except as specifically authorized by s. 112.3189, all information received by the Chief Inspector General or an agency inspector general or information produced or derived from fact-finding or other investigations conducted by the Florida Commission on Human Relations or the Department of Law Enforcement is confidential and exempt from s. 119.07(1) if the information is being received or derived from allegations as set forth in paragraph (1)(a) or paragraph (1)(b), and an investigation is active.

(b) All information received by a local chief executive officer or appropriate local official or information produced or derived from fact-finding or investigations conducted pursuant to the administrative procedure established by ordinance by a local government as authorized by s. 112.3187(8)(b) is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if the information is being received or derived from allegations as set forth in paragraph (1)(a) or paragraph (1)(b) and an investigation is active.

(c) Information deemed confidential under this section may be disclosed by the Chief Inspector General, agency inspector general, local chief executive officer, or other appropriate local official receiving the information if the recipient determines that the disclosure of the information is absolutely necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime. Information disclosed under this subsection may be disclosed only to persons who are in a position to prevent the danger to the

public's health, safety, or welfare or to prevent the imminent commission of a crime based on the disclosed information.

1. An investigation is active under this section if:

a. It is an ongoing investigation or inquiry or collection of information and evidence and is continuing with a reasonable, good faith anticipation of resolution in the foreseeable future; or

b. All or a portion of the matters under investigation or inquiry are active criminal intelligence information or active criminal investigative information as defined in s. 119.011.

2. Notwithstanding sub-subparagraph 1.a., an investigation ceases to be active when:

a. The written report required under s. 112.3189(9) has been sent by the Chief Inspector General to the recipients named in s. 112.3189(9);

b. It is determined that an investigation is not necessary under s. 112.3189(5); or

c. A final decision has been rendered by the local government or by the Division of Administrative Hearings pursuant to s. 112.3187(8)(b).

3. Notwithstanding paragraphs (a), (b), and this paragraph, information or records received or produced under this section which are otherwise confidential under law or exempt from disclosure under chapter 119 retain their confidentiality or exemption.

4. Any person who willfully and knowingly discloses information or records made confidential under this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 6, ch. 90-247; s. 1, ch. 91-150; s. 3, ch. 91-285; s. 2, ch. 93-57; s. 1, ch. 95-136; s. 2, ch. 95-153; s. 1, ch. 95-166; ss. 36, 37, ch. 96-406; s. 21, ch. 99-333.

[1]**Note.**— As amended by s. 1, ch. 95-166, s. 2, ch. 95-153, and s. 36, ch. 96-406; this version of paragraph (2)(a) was also amended by s. 21, ch. 99-333. For a description of multiple acts in the same session affecting a statutory provision, *see* preface to the *Florida Statutes*, "Statutory Construction." This section was also amended by s. 1, ch. 95-136, and s. 37, ch. 96-406, and that version reads:

112.3188 Confidentiality of information given to the Chief Inspector General and agency inspectors general.—

(1) The identity of any individual who discloses in good faith to the Chief Inspector General or an agency inspector general information that alleges that an employee or agent of an agency or independent contractor has violated or is suspected of having violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare or has committed or is suspected of having committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and shall not be disclosed to anyone other than a member of the Chief Inspector General's or agency inspector general's staff without the written consent of the individual, unless the Chief Inspector General or agency inspector general determines that:

(a) The disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime, provided that such information is disclosed only to persons who are in a position to prevent the danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime;

(b) The disclosure of the individual's identity is unavoidable and absolutely necessary during the course of the inquiry or investigation; or

(c) The disclosure of the individual's identity is authorized as a result of the individual consenting in writing to attach general comments signed by such individual to the final report required pursuant to s. 112.3189(6)(b).

(2)(a) Except as specifically authorized by s. 112.3189 and except as provided in subsection (1), all information received by the Chief Inspector General or an agency inspector general or information produced or derived from fact-finding or other investigations conducted by the Department of Legal Affairs, the Office of the Public Counsel, or the Department of Law Enforcement is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution for an initial period of not more than 30 days during which time a determination is made whether an investigation is required pursuant to s. 112.3189(5)(a) and, if an investigation is determined to be required, until the investigation is closed or ceases to be active. For the purposes of this subsection, an investigation is active while such investigation is being conducted with a reasonable good faith belief that it may lead to the filing of administrative, civil, or criminal charges. An investigation does not cease to be active so long as the Chief Inspector General or the agency inspector general is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the Chief Inspector General or agency inspector general or other administrative or law enforcement agency. Except for active criminal intelligence or criminal investigative information as defined in s. 119.011, and except as otherwise provided in this section, all information obtained pursuant to this subsection shall become available to the public when the investigation is closed or ceases to be active. An investigation is closed or ceases to be active when the final report required pursuant to s. 112.3189(9) has been sent by the Chief Inspector General to the recipients specified in s. 112.3189(9)(c).

(b) Information deemed confidential under this subsection may be disclosed by the Chief Inspector General or agency inspector general receiving the information if the Chief Inspector General or agency inspector general determines that the disclosure of the information is absolutely necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime, and such information may be disclosed only to persons who are in a position to prevent the danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime based on the disclosed information.

(3) Information or records obtained under this section which are otherwise confidential under law or exempt from disclosure shall retain their confidentiality or exemption.

(4) Any person who willfully and knowingly discloses information or records made confidential under this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.—

(1) This section only applies to the disclosure of information as described in s. 112.3187(5) by an employee or former employee of, or an applicant for employment with, a state agency, as the term "state agency" is defined in s. 216.011, to the Office of the Chief Inspector General of the Executive Office of the Governor or to the agency inspector general. If an agency does not have an inspector general, the head of the state agency, as defined in s. 216.011, shall designate an employee to receive information described in s. 112.3187(5). For purposes of this section and s. 112.3188 only, the employee designated by the head of the state agency shall be deemed an agency inspector general.

(2) To facilitate the receipt of information described in subsection (1), the Chief Inspector General shall maintain an in-state toll-free whistle-blower's hotline and shall circulate among the various state agencies an advisory for all employees which indicates the existence of the toll-free number and its purpose and provides an address to which written whistle-blower information may be forwarded.

(3) When a person alleges information described in s. 112.3187(5), the Chief Inspector General or agency inspector general actually receiving such information shall within 20 days of receiving such information determine:

(a) Whether the information disclosed is the type of information described in s. 112.3187(5).

(b) Whether the source of the information is a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011.

(c) Whether the information actually disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty.

(4) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is not the type of information described in s. 112.3187(5), or that the source of the information is not a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011, or that the information disclosed does not demonstrate reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Chief Inspector General or agency inspector general shall notify the complainant of such fact and copy and return, upon request of the complainant, any documents and other materials that were provided by the complainant.

(5)(a) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is the type of information described in s. 112.3187(5), that the source of the information is from a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011, and that the information disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Chief Inspector General or agency inspector general making such determination shall then conduct an investigation, unless the Chief Inspector General or the agency inspector general determines, within 30 days after receiving the allegations from the complainant, that such investigation is unnecessary. For purposes of this subsection, the Chief Inspector General or the

agency inspector general shall consider the following factors, but is not limited to only the following factors, when deciding whether the investigation is not necessary:

1. The gravity of the disclosed information compared to the time and expense of an investigation.

2. The potential for an investigation to yield recommendations that will make state government more efficient and effective.

3. The benefit to state government to have a final report on the disclosed information.

4. Whether the alleged whistle-blower information primarily concerns personnel practices that may be investigated under chapter 110.

5. Whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative.

6. The time that has elapsed between the alleged event and the disclosure of the information.

(b) If the Chief Inspector General or agency inspector general determines under paragraph (a) that an investigation is not necessary, the Chief Inspector General or agency inspector general making such determination shall:

1. Copy and return, upon request of the complainant, any documents and other materials provided by the individual who made the disclosure.

2. Inform in writing the head of the state agency for the agency inspector general making the determination that the investigation is not necessary and the individual who made the disclosure of the specific reasons why an investigation is not necessary and why the disclosure will not be further acted on under this section.

(6) The agency inspector general may conduct an investigation pursuant to paragraph (5)(a) only if the person transmitting information to the agency inspector general is an employee or former employee of, or an applicant for employment with, the agency inspector general's agency. The agency inspector general shall:

(a) Conduct an investigation with respect to the information and any related matters.

(b) Submit to the complainant and the Chief Inspector General, within 60 days after the date on which a determination to conduct an investigation is made under paragraph (5)(a), a final written report that sets forth the agency inspector general's findings, conclusions, and recommendations, except as provided under subsection (11). The complainant shall be advised in writing by the agency head that the complainant may submit to the Chief Inspector General and agency inspector general comments on the final report within 20 days of the date of the report and that such comments will be attached to the final report.

(7) If the Chief Inspector General decides an investigation should be conducted pursuant to paragraph (5)(a), the Chief Inspector General shall either:

(a) Promptly transmit to the appropriate head of the state agency the information with respect to which the determination to conduct an investigation was made, and such agency head shall conduct an investigation and submit to the Chief Inspector General a final written report that sets forth the agency head's findings, conclusions, and recommendations; or

(b)1. Conduct an investigation with respect to the information and any related matters; and

2. Submit to the complainant within 60 days after the date on which a determination to conduct an investigation is made under paragraph (5)(a), a final written report that sets forth the Chief Inspector General's findings, conclusions, and recommendations, except as provided under subsection (11). The complainant shall be advised in writing by the Chief Inspector General that the complainant may submit to the Chief Inspector General comments on the final report within 20 days of the date of the report and that such comments will be attached to the final report.

(c) The Chief Inspector General may require an agency head to conduct an investigation under paragraph (a) only if the information was transmitted to the Chief Inspector General by:

1. An employee or former employee of, or an applicant for employment with, the agency that the information concerns; or

2. An employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

(8) Final reports required under this section must be reviewed and signed by the person responsible for conducting the investigation (agency inspector general, agency head, or Chief Inspector General) and must include:

(a) A summary of the information with respect to which the investigation was initiated.

(b) A description of the conduct of the investigation.

(c) A summary of any evidence obtained from the investigation.

(d) A listing of any violation or apparent violation of any law, rule, or regulation.

(e) A description of any action taken or planned as a result of the investigation, such as:

1. A change in an agency rule, regulation, or practice.
2. The restoration of an aggrieved employee.
3. A disciplinary action against an employee.
4. The referral to the Department of Law Enforcement of any evidence of a criminal violation.

(9)(a) A report required of the agency head under paragraph (7)(a) shall be submitted to the Chief Inspector General and the complainant within 60 days after the agency head receives the complaint from the Chief Inspector General, except as provided under subsection (11). The complainant shall be advised in writing by the agency head that the complainant may submit to the Chief Inspector General comments on the report within 20 days of the date of the report and that such comments will be attached to the final report.

(b) Upon receiving a final report required under this section, the Chief Inspector General shall review the report and determine whether the report contains the information required by subsection (8). If the report does not contain the information required by subsection (8), the Chief Inspector General shall determine why and note the reasons on an addendum to the final report.

(c) The Chief Inspector General shall transmit any final report under this section, any comments provided by the complainant, and any appropriate comments or recommendations by the Chief Inspector General to the Governor, the Legislative Auditing Committee, the investigating agency, and the Chief Financial Officer.

(d) If the Chief Inspector General does not receive the report of the agency head within the time prescribed in paragraph (a), the Chief Inspector General may conduct the investigation in accordance with paragraph (7)(b) or request that another agency inspector general conduct the investigation in accordance with subsection (6) and shall report the complaint to the Governor, to the Joint Legislative Auditing Committee, and to the investigating agency, together with a statement noting the failure of the agency head to file the required report.

(10) For any time period set forth in subsections (3), (6), (7), and (9), such time period may be extended in writing by the Chief Inspector General for good cause shown.

(11) If an investigation under this section produces evidence of a criminal violation, the report shall not be transmitted to the complainant, and the agency head or agency inspector general shall notify the Chief Inspector General and the Department of Law Enforcement.

History.—s. 13, ch. 92-316; s. 3, ch. 93-57; s. 129, ch. 2003-261; s. 17, ch. 2011-34.

112.31895 Investigative procedures in response to prohibited personnel actions.—

(1)(a) If a disclosure under s. 112.3187 includes or results in alleged retaliation by an employer, the employee or former employee of, or applicant for employment with, a state agency, as defined in s. 216.011, that is so affected may file a complaint alleging a prohibited personnel action, which complaint must be made by filing a written complaint with the Office of the Chief Inspector General in the Executive Office of the Governor or the Florida Commission on Human Relations, no later than 60 days after the prohibited personnel action.

(b) Within three working days after receiving a complaint under this section, the office or officer receiving the complaint shall acknowledge receipt of the complaint and provide copies of the complaint and any other preliminary information available concerning the disclosure of information under s. 112.3187 to each of the other parties named in paragraph (a), which parties shall each acknowledge receipt of such copies to the complainant.

(2) FACT FINDING.—The Florida Commission on Human Relations shall:

(a) Receive any allegation of a personnel action prohibited by s. 112.3187, including a proposed or potential action, and conduct informal fact finding regarding any allegation under this section, to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel action under s. 112.3187 has occurred, is occurring, or is to be taken.

(b) Notify the complainant, within 15 days after receiving a complaint, that the complaint has been received by the department.

(c) Within 90 days after receiving the complaint, provide the agency head and the complainant with a fact-finding report that may include recommendations to the parties or proposed resolution of the complaint. The fact-finding report shall be presumed admissible in any subsequent or related administrative or judicial review.

(3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.

2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.

3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.

4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, the Public Employees Relations Commission, and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.

8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before the Public Employees Relations Commission or any other appropriate agency, except that the Florida Commission on Human Relations must comply with the rules of the commission or other agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

(b) Within 15 days after receiving a complaint that a person has been discharged from employment allegedly for disclosing protected information under s. 112.3187, the Florida Commission on Human Relations shall review the information and determine whether temporary reinstatement is appropriate under s. 112.3187(9)(f). If the Florida Commission on Human Relations so determines, it shall apply for an expedited order from the appropriate agency or circuit court for the immediate reinstatement of the employee who has been discharged subsequent to the disclosure made under s. 112.3187, pending the issuance of the final order on the complaint.

(c) The Florida Commission on Human Relations shall notify a complainant of the status of the investigation and any action taken at such times as the commission considers appropriate.

(d) If the Florida Commission on Human Relations is unable to conciliate a complaint within 60 days after receipt of the fact-finding report, the Florida Commission on Human Relations shall terminate the investigation. Upon termination of any investigation, the Florida Commission on Human Relations shall notify the complainant and the agency head of the termination of the investigation, providing a summary of relevant facts found during the investigation and the reasons for terminating the investigation. A written statement under this paragraph is presumed admissible as evidence in any judicial or administrative proceeding but is not admissible without the consent of the complainant.

(e)1. The Florida Commission on Human Relations may request an agency or circuit court to order a stay, on such terms as the court requires, of any personnel action for 45 days if the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a prohibited personnel action has occurred, is occurring, or is to be taken. The Florida Commission on Human Relations may request that such stay be extended for appropriate periods of time.

2. If, in connection with any investigation, the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a prohibited action has occurred, is occurring, or is to be taken which requires corrective action, the Florida Commission on Human Relations shall report the determination together with any findings or recommendations to the agency head and may report that determination and those findings and recommendations to the Governor and the Chief Financial Officer. The Florida Commission on Human Relations may include in the report recommendations for corrective action to be taken.

3. If, after 20 days, the agency does not implement the recommended action, the Florida Commission on Human Relations shall terminate the investigation and notify the complainant of the right to appeal under subsection (4), or may petition the agency for corrective action under this subsection.

4. If the Florida Commission on Human Relations finds, in consultation with the individual subject to the prohibited action, that the agency has implemented the corrective action, the commission shall file such finding with the agency head, together with any written comments that the individual provides, and terminate the investigation.

(f) If the Florida Commission on Human Relations finds that there are no reasonable grounds to believe that a prohibited personnel action has occurred, is occurring, or is to be taken, the commission shall terminate the investigation.

(g)1. If, in connection with any investigation under this section, it is determined that reasonable grounds exist to believe that a criminal violation has occurred which has not been previously reported, the Florida Commission on Human Relations shall report this determination to the Department of Law Enforcement and to the state attorney having jurisdiction over the matter.

2. If an alleged criminal violation has been reported, the Florida Commission on Human Relations shall confer with the Department of Law Enforcement and the state attorney before proceeding with the investigation of the prohibited personnel action and may defer the investigation pending completion of the criminal investigation and proceedings. The Florida Commission on Human Relations shall inform the complainant of the decision to defer the investigation and, if appropriate, of the confidentiality of the investigation.

(h) If, in connection with any investigation under this section, the Florida Commission on Human Relations determines that reasonable grounds exist to believe that a violation of a law, rule, or regulation has occurred, other than a criminal violation or a prohibited action under this section, the commission may report such violation to the head of the agency involved. Within 30 days after the agency receives the report, the agency head shall provide to the commission a certification that states that the head of the agency has personally reviewed the report and indicates what action has been or is to be taken and when the action will be completed.

(i) During any investigation under this section, disciplinary action may not be taken against any employee of a state agency, as the term “state agency” is defined in s. 216.011, for reporting an alleged prohibited personnel action that is under investigation, or for reporting any related activity, or against any employee for participating in an investigation without notifying the Florida Commission on Human Relations.

(j) The Florida Commission on Human Relations may also petition for an award of reasonable attorney’s fees and expenses from a state agency, as the term “state agency” is defined in s. 216.011, pursuant to s. 112.3187(9).

(4) RIGHT TO APPEAL.—

(a) Not more than 60 days after receipt of a notice of termination of the investigation from the Florida Commission on Human Relations, the complainant may file, with the Public Employees Relations Commission, a complaint against the employer-agency regarding the alleged prohibited personnel action. The Public Employees Relations Commission shall have jurisdiction over such complaints under ss. 112.3187 and 447.503(4) and (5).

(b) Judicial review of any final order of the commission shall be as provided in s. 120.68.

History.—s. 14, ch. 92-316; s. 4, ch. 93-57; s. 703, ch. 95-147; s. 22, ch. 99-333; s. 130, ch. 2003-261.

112.31901 Investigatory records.—

(1) If certified pursuant to subsection (2), an investigatory record of the Chief Inspector General within the Executive Office of the Governor or of the employee designated by an agency head as the agency inspector general under s. 112.3189 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ceases to be active, or a report detailing the investigation is provided to the Governor or the agency head, or 60 days from the inception of the investigation for which the record was made or received, whichever first occurs. Investigatory records are those records that are related to the investigation of an alleged, specific act or omission or other wrongdoing, with respect to an identifiable person or group of persons, based on information compiled by the Chief Inspector General or by an agency inspector general, as named under the provisions of s. 112.3189, in the course of an investigation. An investigation is active if it is continuing with a reasonable, good faith anticipation of resolution and with reasonable dispatch.

(2) The Governor, in the case of the Chief Inspector General, or agency head, in the case of an employee designated as the agency inspector general under s. 112.3189, may certify that such investigatory records require an exemption to protect the integrity of the investigation or avoid unwarranted damage to an individual's good name or reputation. The certification must specify the nature and purpose of the investigation and shall be kept with the exempt records and made public when the records are made public.

(3) This section does not apply to whistle-blower investigations conducted pursuant to ss. 112.3187, 112.3188, 112.3189, and 112.31895.

History.—s. 4, ch. 93-405; s. 35, ch. 95-398; s. 38, ch. 2005-251; s. 13, ch. 2006-1.

Note.—Former s. 119.07(6)(w).

112.3191 Short title.—This act shall be known and cited as "The John J. Savage Memorial Act of 1974."

History.—s. 1, ch. 74-176.

112.320 Commission on Ethics; purpose.—There is created a Commission on Ethics, the purpose of which is to serve as guardian of the standards of conduct for the officers and employees of the state, and of a county, city, or other political subdivision of the state, as defined in this part, and to serve as the independent commission provided for in s. 8(f), Art. II of the State Constitution.

History.—s. 2, ch. 74-176; s. 11, ch. 91-85.

112.321 Membership, terms; travel expenses; staff.—

(1) The commission shall be composed of nine members. Five of these members shall be appointed by the Governor, no more than three of whom shall be from the same political party, subject to confirmation by the Senate. One member appointed by the Governor shall be a former city or county official and may be a former member of a local planning or zoning board which has only advisory duties. Two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the President of the Senate. Neither the Speaker of the House of Representatives nor the President of the Senate shall appoint more than one member from the same political party. Of the nine members of the Commission, no more than five members shall be from the same political party at any one time. No member may hold any public employment. An individual who qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or pursuant to any local government charter or ordinance may not serve as a member of the commission, except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2006, until the expiration of his or her current term. A member of the commission may not lobby any state or local governmental entity as provided in s. 11.045 or s. 112.3215 or as provided by any local government charter or ordinance, except that this prohibition does not apply to an individual who is a member of the commission on July 1, 2006, until the expiration of his or her current term. All members shall serve 2-year terms. A member may not serve more than two full terms in succession. Any member of the commission may be removed for cause by majority vote of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.

(2) The members of the commission shall elect a chair from their number, who shall serve for a 1-year term and may not succeed himself or herself as chair.

(3) Members of the commission shall receive no salary but shall receive travel and per diem as provided in s. 112.061.

(4) In accordance with the uniform personnel, job classification, and pay plan adopted with the approval of the President of the Senate and the Speaker of the House of Representatives and administered by the Office of Legislative Services, the commission shall employ an executive director and shall provide the executive director with necessary office space, assistants, and secretaries. Within the above uniform plan, decisions relating to hiring, promotion, demotion, and termination of commission employees shall be made by the commission or, if so delegated by the commission, by its executive director.

History.—s. 2, ch. 74-176; s. 3, ch. 75-199; s. 6, ch. 82-98; s. 1, ch. 86-148; s. 3, ch. 88-29; s. 2, ch. 91-49; s. 704, ch. 95-147; s. 24, ch. 98-136; s. 6, ch. 2000-243; s. 10, ch. 2006-275.

112.3213 Legislative intent and purpose.—The Legislature finds that the operation of open and responsible government requires the fullest opportunity to be afforded to the people to petition their government for the redress of grievances and to express freely their opinions on executive branch action. Further, the Legislature finds that preservation of the integrity of the governmental decisionmaking process is essential to the continued functioning of an open government. Therefore, in order to preserve and maintain the integrity of the process and to better inform citizens of the efforts to influence executive branch action, the Legislature finds it necessary to require the public disclosure of the identity, expenditures, and activities of certain persons who attempt to influence actions of the executive branch in the areas of policy and procurement.

History.—s. 5, ch. 93-121.

112.3215 Lobbying before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.—

(1) For the purposes of this section:

(a) "Agency" means the Governor, Governor and Cabinet, or any department, division, bureau, board, commission, or authority of the executive branch. In addition, "agency" shall mean the Constitution Revision Commission as provided by s. 2, Art. XI of the State Constitution.

(b) "Agency official" or "employee" means any individual who is required by law to file full or limited public disclosure of his or her financial interests.

(c) "Compensation" means a payment, distribution, loan, advance, reimbursement, deposit, salary, fee, retainer, or anything of value provided or owed to a lobbying firm, directly or indirectly, by a principal for any lobbying activity.

(d) "Expenditure" means a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. The term "expenditure" does not include contributions or expenditures reported pursuant to chapter 106 or contributions or expenditures reported pursuant to federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party or an affiliated party committee, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4).

(e) "Fund" means the Executive Branch Lobby Registration Trust Fund.

(f) "Lobbies" means seeking, on behalf of another person, to influence an agency with respect to a decision of the agency in the area of policy or procurement or an attempt to obtain the goodwill of an agency official or employee. "Lobbies" also means influencing or attempting to influence, on behalf of another, the Constitution Revision Commission's action or nonaction through oral or written communication or an attempt to obtain the goodwill of a member or employee of the Constitution Revision Commission.

(g) "Lobbying firm" means a business entity, including an individual contract lobbyist, that receives or becomes entitled to receive any compensation for the purpose of lobbying, where any partner, owner, officer, or employee of the business entity is a lobbyist.

(h) "Lobbyist" means a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by

another person or governmental entity to lobby on behalf of that other person or governmental entity. "Lobbyist" does not include a person who is:

1. An attorney, or any person, who represents a client in a judicial proceeding or in a formal administrative proceeding conducted pursuant to chapter 120 or any other formal hearing before an agency, board, commission, or authority of this state.

2. An employee of an agency or of a legislative or judicial branch entity acting in the normal course of his or her duties.

3. A confidential informant who is providing, or wishes to provide, confidential information to be used for law enforcement purposes.

4. A person who lobbies to procure a contract pursuant to chapter 287 which contract is less than the threshold for CATEGORY ONE as provided in s. 287.017.

(i) "Principal" means the person, firm, corporation, or other entity which has employed or retained a lobbyist.

(2) The Executive Branch Lobby Registration Trust Fund is hereby created within the commission to be used for the purpose of funding any office established to administer the registration of lobbyists lobbying an agency, including the payment of salaries and other expenses. The trust fund is not subject to the service charge to General Revenue provisions of chapter 215. All annual registration fees collected pursuant to this section shall be deposited into such fund.

(3) A person may not lobby an agency until such person has registered as a lobbyist with the commission. Such registration shall be due upon initially being retained to lobby and is renewable on a calendar year basis thereafter. Upon registration the person shall provide a statement signed by the principal or principal's representative that the registrant is authorized to represent the principal. The principal shall also identify and designate its main business on the statement authorizing that lobbyist pursuant to a classification system approved by the commission. The registration shall require each lobbyist to disclose, under oath, the following information:

(a) Name and business address;

(b) The name and business address of each principal represented;

(c) His or her area of interest;

(d) The agencies before which he or she will appear; and

(e) The existence of any direct or indirect business association, partnership, or financial relationship with any employee of an agency with which he or she lobbies, or intends to lobby, as disclosed in the registration.

(4) The annual lobbyist registration fee shall be set by the commission by rule, not to exceed $40 for each principal represented.

(5)(a)1. Each lobbying firm shall file a compensation report with the commission for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. The report shall include the:

a. Full name, business address, and telephone number of the lobbying firm;

b. Name of each of the firm's lobbyists; and

c. Total compensation provided or owed to the lobbying firm from all principals for the reporting period, reported in one of the following categories: $0; $1 to $49,999; $50,000 to $99,999; $100,000 to $249,999; $250,000 to $499,999; $500,000 to $999,999; $1 million or more.

2. For each principal represented by one or more of the firm's lobbyists, the lobbying firm's compensation report shall also include the:

a. Full name, business address, and telephone number of the principal; and

b. Total compensation provided or owed to the lobbying firm for the reporting period, reported in one of the following categories: $0; $1 to $9,999; $10,000 to $19,999; $20,000 to $29,999; $30,000 to $39,999; $40,000 to $49,999; or $50,000 or more. If the category "$50,000 or more" is selected, the specific dollar amount of compensation must be reported, rounded up or down to the nearest $1,000.

3. If the lobbying firm subcontracts work from another lobbying firm and not from the original principal:

a. The lobbying firm providing the work to be subcontracted shall be treated as the reporting lobbying firm's principal for reporting purposes under this paragraph; and

b. The reporting lobbying firm shall, for each lobbying firm identified under subparagraph 2., identify the name and address of the principal originating the lobbying work.

4. The senior partner, officer, or owner of the lobbying firm shall certify to the veracity and completeness of the information submitted pursuant to this paragraph.

(b) For each principal represented by more than one lobbying firm, the commission shall aggregate the reporting-period and calendar-year compensation reported as provided or owed by the principal.

(c) The reporting statements shall be filed no later than 45 days after the end of each reporting period. The four reporting periods are from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31, respectively. Reporting statements must be filed by electronic means as provided in s. 112.32155.

(d) The commission shall provide by rule the grounds for waiving a fine, the procedures by which a lobbying firm that fails to timely file a report shall be notified and assessed fines, and the procedure for appealing the fines. The rule shall provide for the following:

1. Upon determining that the report is late, the person designated to review the timeliness of reports shall immediately notify the lobbying firm as to the failure to timely file the report and that a fine is being assessed for each late day. The fine shall be $50 per day per report for each late day up to a maximum of $5,000 per late report.

2. Upon receipt of the report, the person designated to review the timeliness of reports shall determine the amount of the fine due based upon the earliest of the following:

a. When a report is actually received by the lobbyist registration and reporting office.

b. When the electronic receipt issued pursuant to s. 112.32155 is dated.

3. Such fine shall be paid within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office, unless appeal is made to the commission. The moneys shall be deposited into the Executive Branch Lobby Registration Trust Fund.

4. A fine shall not be assessed against a lobbying firm the first time any reports for which the lobbying firm is responsible are not timely filed. However, to receive the one-time fine waiver, all reports for which the lobbying firm is responsible must be filed within 30 days after the notice that any reports have not been timely filed is transmitted by the Lobbyist Registration Office. A fine shall be assessed for any subsequent late-filed reports.

5. Any lobbying firm may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the commission, which shall have the authority to waive the fine in whole or in part for good cause shown. Any such request shall be made within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office. In such case, the lobbying firm shall, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

6. The person designated to review the timeliness of reports shall notify the commission of the failure of a lobbying firm to file a report after notice or of the failure of a lobbying firm to pay the fine imposed. All lobbyist registrations for lobbyists who are partners, owners, officers, or employees of a lobbying firm that fails to timely pay a fine are automatically suspended until the fine is paid or waived, and the commission shall promptly notify all affected principals of each suspension and each reinstatement.

7. Notwithstanding any provision of chapter 120, any fine imposed under this subsection that is not waived by final order of the commission and that remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the lobbying firm's appeal shall be collected by the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department may assign the collection of such fine to a collection agent as provided in s. 17.20.

(e) Each lobbying firm and each principal shall preserve for a period of 4 years all accounts, bills, receipts, computer records, books, papers, and other documents and records necessary to substantiate compensation. Any documents and records retained pursuant to this section may be subpoenaed for audit by the Legislative Auditing Committee pursuant to s. 11.40, and such subpoena may be enforced in circuit court.

(6)(a) Notwithstanding s. 112.3148, s. 112.3149, or any other provision of law to the contrary, no lobbyist or principal shall make, directly or indirectly, and no agency official, member, or employee shall knowingly accept,

directly or indirectly, any expenditure.

(b) No person shall provide compensation for lobbying to any individual or business entity that is not a lobbying firm.

(7) A lobbyist shall promptly send a written statement to the commission canceling the registration for a principal upon termination of the lobbyist's representation of that principal. Notwithstanding this requirement, the commission may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the office that a person is no longer authorized to represent that principal.

(8)(a) The commission shall investigate every sworn complaint that is filed with it alleging that a person covered by this section has failed to register, has failed to submit a compensation report, has made a prohibited expenditure, or has knowingly submitted false information in any report or registration required in this section.

(b) All proceedings, the complaint, and other records relating to the investigation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and any meetings held pursuant to an investigation are exempt from the provisions of s. 286.011(1) and s. 24(b), Art. I of the State Constitution either until the alleged violator requests in writing that such investigation and associated records and meetings be made public or until the commission determines, based on the investigation, whether probable cause exists to believe that a violation has occurred.

(c) The commission shall investigate any lobbying firm, lobbyist, principal, agency, officer, or employee upon receipt of information from a sworn complaint or from a random audit of lobbying reports indicating a possible violation other than a late-filed report.

(d)1. Records relating to an audit conducted pursuant to this section or an investigation conducted pursuant to this section or s. 112.32155 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. Any portion of a meeting wherein such investigation or audit is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

3. The exemptions no longer apply if the lobbying firm requests in writing that such investigation and associated records and meetings be made public or the commission determines there is probable cause that the audit reflects a violation of the reporting laws.

(9) If the commission finds no probable cause to believe that a violation of this section occurred, it shall dismiss the complaint, whereupon the complaint, together with a written statement of the findings of the investigation and a summary of the facts, shall become a matter of public record, and the commission shall send a copy of the complaint, findings, and summary to the complainant and the alleged violator. If, after investigating information from a random audit of lobbying reports, the commission finds no probable cause to believe that a violation of this section occurred, a written statement of the findings of the investigation and a summary of the facts shall become a matter of public record, and the commission shall send a copy of the findings and summary to the alleged violator. If the commission finds probable cause to believe that a violation occurred, it shall report the results of its investigation to the Governor and Cabinet and send a copy of the report to the alleged violator by certified mail. Such notification and all documents made or received in the disposition of the complaint shall then become public records. Upon request submitted to the Governor and Cabinet in writing, any person whom the commission finds probable cause to believe has violated any provision of this section shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within 14 days following the mailing of the probable cause notification. However, the Governor and Cabinet may on its own motion require a public hearing and may conduct such further investigation as it deems necessary.

(10) If the Governor and Cabinet find that a violation occurred, the Governor and Cabinet may reprimand the violator, censure the violator, or prohibit the violator from lobbying all agencies for a period not to exceed 2 years. If the violator is a lobbying firm, lobbyist, or principal, the Governor and Cabinet may also assess a fine of not more than $5,000 to be deposited in the Executive Branch Lobby Registration Trust Fund.

(11) Any person who is required to be registered or to provide information under this section or under rules adopted pursuant to this section and who knowingly fails to disclose any material fact that is required by this section or by rules adopted pursuant to this section, or who knowingly provides false information on any report required by this section or by rules adopted pursuant to this section, commits a noncriminal infraction, punishable by a fine not to

exceed $5,000. Such penalty is in addition to any other penalty assessed by the Governor and Cabinet pursuant to subsection (10).

(12) Any person, when in doubt about the applicability and interpretation of this section to himself or herself in a particular context, may submit in writing the facts of the situation to the commission with a request for an advisory opinion to establish the standard of duty. An advisory opinion shall be rendered by the commission and, until amended or revoked, shall be binding on the conduct of the person who sought the opinion, unless material facts were omitted or misstated in the request.

(13) Agencies shall be diligent to ascertain whether persons required to register pursuant to this section have complied. An agency may not knowingly permit a person who is not registered pursuant to this section to lobby the agency.

(14) Upon discovery of violations of this section an agency or any person may file a sworn complaint with the commission.

(15) The commission shall adopt rules to administer this section, which shall prescribe forms for registration and compensation reports, procedures for registration, and procedures that will prevent disclosure of information that is confidential as provided in this section.

History.—s. 2, ch. 89-325; s. 3, ch. 90-268; s. 29, ch. 90-360; s. 5, ch. 91-292; s. 2, ch. 92-35; s. 6, ch. 93-121; s. 705, ch. 95-147; s. 1, ch. 95-357; s. 2, ch. 96-203; s. 38, ch. 96-406; s. 1, ch. 97-12; s. 2, ch. 2000-232; s. 131, ch. 2003-261; ss. 5, 6, ch. 2005-359; s. 1, ch. 2005-361; ss. 12, 13, 14, ch. 2006-275; s. 6, ch. 2010-151; ss. 29, 30, ch. 2011-6; s. 76, ch. 2011-40; s. 1, ch. 2011-178; HJR 7105, 2011 Regular Session; s. 3, ch. 2012-25; s. 16, ch. 2013-36; s. 17, ch. 2014-17.

112.32151 Requirements for reinstitution of lobbyist registration after felony conviction.—A person convicted of a felony after January 1, 2006, may not be registered as a lobbyist pursuant to s. 112.3215 until the person:

(1) Has been released from incarceration and any postconviction supervision, and has paid all court costs and court-ordered restitution; and

(2) Has had his or her civil rights restored.

History.—s. 9, ch. 2005-359; s. 8, ch. 2007-5.

112.32155 Electronic filing of compensation reports and other information.—

(1) As used in this section, the term "electronic filing system" means an Internet system for recording and reporting lobbying compensation and other required information by reporting period.

(2) Each lobbying firm who is required to file reports with the Commission on Ethics pursuant to s. 112.3215 must file such reports with the commission by means of the electronic filing system.

(3) A report filed pursuant to this section must be completed and filed through the electronic filing system not later than 11:59 p.m. of the day designated in s. 112.3215. A report not filed by 11:59 p.m. of the day designated is a late-filed report and is subject to the penalties under s. 112.3215(5).

(4) Each report filed pursuant to this section is considered to meet the certification requirements of s. 112.3215(5)(a)4. Persons given a secure sign-on to the electronic filing system are responsible for protecting it from disclosure and are responsible for all filings using such credentials, unless they have notified the commission that their credentials have been compromised.

(5) The electronic filing system must:

(a) Be based on access by means of the Internet.

(b) Be accessible by anyone with Internet access using standard web-browsing software.

(c) Provide for direct entry of compensation report information as well as upload of such information from software authorized by the commission.

(d) Provide a method that prevents unauthorized access to electronic filing system functions.

(6) The commission shall provide by rule procedures to implement and administer this section, including, but not limited to:

(a) Alternate filing procedures in case the electronic filing system is not operable.

(b) The issuance of an electronic receipt to the person submitting the report indicating and verifying the date and time that the report was filed.

(7) The commission shall make all the data filed available on the Internet in an easily understood and accessible format. The Internet website shall also include, but not be limited to, the names and business addresses of lobbyists, lobbying firms, and principals, the affiliations between lobbyists and principals, and the classification system designated and identified by each principal pursuant to s. 112.3215(3).

History.—s. 7, ch. 2005-359.

112.3217 Contingency fees; prohibitions; penalties.—

(1) "Contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent or in any way contingent on the enactment, defeat, modification, or other outcome of any specific executive branch action.

(2) No person may, in whole or in part, pay, give, or receive, or agree to pay, give, or receive, a contingency fee. However, this subsection does not apply to claims bills.

(3) Any person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If such person is a lobbyist, the lobbyist shall forfeit any fee, bonus, commission, or profit received in violation of this section and is subject to the penalties set forth in s. 112.3215. When the fee, bonus, commission, or profit is nonmonetary, the fair market value of the benefit shall be used in determining the amount to be forfeited. All forfeited benefits shall be deposited into the Executive Branch Lobby Registration Trust Fund.

(4) Nothing in this section may be construed to prohibit any salesperson engaging in legitimate state business on behalf of a company from receiving compensation or commission as part of a bona fide contractual arrangement with that company.

History.—s. 7, ch. 93-121; s. 9, ch. 2000-336.

112.322 Duties and powers of commission.—

(1) It is the duty of the Commission on Ethics to receive and investigate sworn complaints of violation of the code of ethics as established in this part and of any other breach of the public trust, as provided in s. 8(f), Art. II of the State Constitution, including investigation of all facts and parties materially related to the complaint at issue.

(2)(a) Any public officer or employee may request a hearing before the Commission on Ethics to present oral or written testimony in response to allegations that such person violated the code of ethics established in this part or allegations of any other breach of the public trust, as provided in s. 8, Art. II of the State Constitution, provided a majority of the commission members present and voting consider that the allegations are of such gravity as to affect the general welfare of the state and the ability of the subject public officer or employee effectively to discharge the duties of the office. If the allegations made against the subject public officer or employee are made under oath, then he or she shall also be required to testify under oath.

(b) Upon completion of any investigation initiated under this subsection, the commission shall make a finding and public report as to whether any provision of the code of ethics has been violated or any other breach of the public trust has been committed by the subject official or employee. In the event that a violation or breach is found to have been committed, the commission shall recommend appropriate action to the agency or official having power to impose any penalty provided by s. 112.317.

(c) All proceedings conducted pursuant to this subsection shall be public meetings within the meaning of chapter 286, and all documents made or received in connection with the commission's investigation thereof shall be public records within the meaning of chapter 119.

(d) Any response to a request of a public official or employee shall be addressed in the first instance to the official or employee making the request.

(3)(a) Every public officer, candidate for public office, or public employee, when in doubt about the applicability and interpretation of this part or s. 8, Art. II of the State Constitution to himself or herself in a particular context, may submit in writing the facts of the situation to the Commission on Ethics with a request for an advisory opinion to establish the standard of public duty. Any public officer or employee who has the power to hire or terminate

employees may likewise seek an advisory opinion from the commission as to the application of the provisions of this part or s. 8, Art. II of the State Constitution to any such employee or applicant for employment. An advisory opinion shall be rendered by the commission, and each such opinion shall be numbered, dated, and published without naming the person making the request, unless such person consents to the use of his or her name.

(b) Such opinion, until amended or revoked, shall be binding on the conduct of the officer, employee, or candidate who sought the opinion or with reference to whom the opinion was sought, unless material facts were omitted or misstated in the request for the advisory opinion.

(4) The commission has the power to subpoena, audit, and investigate. The commission may subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the performance of the duties of the commission or to the exercise of its powers. The commission may delegate to its investigators the authority to administer oaths and affirmations. The commission may delegate the authority to issue subpoenas to its chair, and may authorize its employees to serve any subpoena issued under this section. In the case of a refusal to obey a subpoena issued to any person, the commission may make application to any circuit court of this state which shall have jurisdiction to order the witness to appear before the commission and to produce evidence, if so ordered, or to give testimony touching on the matter in question. Failure to obey the order may be punished by the court as contempt. Witnesses shall be paid mileage and witnesses fees as authorized for witnesses in civil cases, except that a witness who is required to travel outside the county of his or her residence to testify is entitled to per diem and travel expenses at the same rate provided for state employees under s. 112.061, to be paid after the witness appears.

(5) The commission may recommend that the Governor initiate judicial proceedings in the name of the state against any executive or administrative state, county, or municipal officer to enforce compliance with any provision of this part or of s. 8, Art. II of the State Constitution or to restrain violations of this part or of s. 8, Art. II of the State Constitution, pursuant to s. 1(b), Art. IV of the State Constitution; and the Governor may without further action initiate such judicial proceedings.

(6) The commission is authorized to call upon appropriate agencies of state government for such professional assistance as may be needed in the discharge of its duties. The Department of Legal Affairs shall, upon request, provide legal and investigative assistance to the commission.

(7) The commission may prepare materials designed to assist persons in complying with the provisions of this part and with s. 8, Art. II of the State Constitution.

(8) It shall be the further duty of the commission to submit to the Legislature from time to time a report of its work and recommendations for legislation deemed necessary to improve the code of ethics and its enforcement.

(9) The commission is authorized to make such rules not inconsistent with law as are necessary to carry out the duties and authority conferred upon the commission by s. 8, Art. II of the State Constitution or by this part. Such rules shall be limited to:

(a) Rules providing for the practices and procedures of the commission.

(b) Rules interpreting the disclosures and prohibitions established by s. 8, Art. II of the State Constitution and by this part.

History.—s. 2, ch. 74-176; s. 4, ch. 75-199; s. 1, ch. 76-89; s. 1, ch. 77-174; s. 7, ch. 82-98; s. 33, ch. 89-169; s. 12, ch. 91-85; s. 13, ch. 94-277; s. 1416, ch. 95-147; s. 7, ch. 2000-243; s. 15, ch. 2006-275.

112.3231 Time limitations.—

(1) On or after October 1, 1993, all sworn complaints alleging a violation of this part, or of any other breach of the public trust within the jurisdiction of the Commission on Ethics under s. 8, Art. II of the State Constitution, shall be filed with the commission within 5 years of the alleged violation or other breach of the public trust.

(2) A violation of this part or any other breach of public trust is committed when every element has occurred or, if the violation or breach of public trust involves a continuing course of conduct, at the time when the course of conduct or the officer's, employee's, or candidate's complicity therein is terminated. Time starts to run on the day after the violation or breach of public trust is committed.

(3) The applicable period of limitation is tolled on the day a sworn complaint against the public officer, employee, or candidate is filed with the Commission on Ethics. If it can be concluded from the face of the complaint that the applicable period of limitation has run, the complaint shall be dismissed and the commission shall issue a public report.

History.—s. 13, ch. 91-85; s. 10, ch. 94-277.

112.3232 Compelled testimony.—If any person called to give evidence in a commission proceeding shall refuse to give evidence because of a claim of possible self-incrimination, the commission, with the written authorization of the appropriate state attorney, may apply to the chief judge of the appropriate judicial circuit for a judicial grant of immunity ordering the testimony or other evidence of such person notwithstanding his or her objection, but in such case no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal proceeding.

History.—s. 10, ch. 2000-243.

112.324 Procedures on complaints of violations and referrals; public records and meeting exemptions.—

(1) The commission shall investigate an alleged violation of this part or other alleged breach of the public trust within the jurisdiction of the commission as provided in s. 8(f), Art. II of the State Constitution:

(a) Upon a written complaint executed on a form prescribed by the commission and signed under oath or affirmation by any person; or

(b) Upon receipt of a written referral of a possible violation of this part or other possible breach of the public trust from the Governor, the Department of Law Enforcement, a state attorney, or a United States Attorney which at least six members of the commission determine is sufficient to indicate a violation of this part or any other breach of the public trust.

Within 5 days after receipt of a complaint by the commission or a determination by at least six members of the commission that the referral received is deemed sufficient, a copy shall be transmitted to the alleged violator.

(2)(a) The complaint and records relating to the complaint or to any preliminary investigation held by the commission or its agents, by a Commission on Ethics and Public Trust established by any county defined in s. 125.011(1) or by any municipality defined in s. 165.031, or by any county or municipality that has established a local investigatory process to enforce more stringent standards of conduct and disclosure requirements as provided in s. 112.326 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Written referrals and records relating to such referrals held by the commission or its agents, the Governor, the Department of Law Enforcement, or a state attorney, and records relating to any preliminary investigation of such referrals held by the commission or its agents, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) Any portion of a proceeding conducted by the commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process, pursuant to a complaint or preliminary investigation, is exempt from s. 286.011, s. 24(b), Art. I of the State Constitution, and s. 120.525.

(d) Any portion of a proceeding of the commission in which a determination regarding a referral is discussed or acted upon is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution, and s. 120.525.

(e) The exemptions in paragraphs (a)-(d) apply until:

1. The complaint is dismissed as legally insufficient;
2. The alleged violator requests in writing that such records and proceedings be made public;
3. The commission determines that it will not investigate the referral; or
4. The commission, a Commission on Ethics and Public Trust, or a county or municipality that has established such local investigatory process determines, based on such investigation, whether probable cause exists to believe that a violation has occurred.

(f) A complaint or referral under this part against a candidate in any general, special, or primary election may not be filed nor may any intention of filing such a complaint or referral be disclosed on the day of any such election or

within the 30 days immediately preceding the date of the election, unless the complaint or referral is based upon personal information or information other than hearsay.

(g) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

(3) A preliminary investigation shall be undertaken by the commission of each legally sufficient complaint or referral over which the commission has jurisdiction to determine whether there is probable cause to believe that a violation has occurred. If, upon completion of the preliminary investigation, the commission finds no probable cause to believe that this part has been violated or that any other breach of the public trust has been committed, the commission shall dismiss the complaint or referral with the issuance of a public report to the complainant and the alleged violator, stating with particularity its reasons for dismissal. At that time, the complaint or referral and all materials relating to the complaint or referral shall become a matter of public record. If the commission finds from the preliminary investigation probable cause to believe that this part has been violated or that any other breach of the public trust has been committed, it shall so notify the complainant and the alleged violator in writing. Such notification and all documents made or received in the disposition of the complaint or referral shall then become public records. Upon request submitted to the commission in writing, any person who the commission finds probable cause to believe has violated any provision of this part or has committed any other breach of the public trust shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within 14 days following the mailing of the probable cause notification required by this subsection. However, the commission may on its own motion, require a public hearing, may conduct such further investigation as it deems necessary, and may enter into such stipulations and settlements as it finds to be just and in the best interest of the state. The commission is without jurisdiction to, and no respondent may voluntarily or involuntarily, enter into a stipulation or settlement which imposes any penalty, including, but not limited to, a sanction or admonition or any other penalty contained in s. 112.317. Penalties shall be imposed only by the appropriate disciplinary authority as designated in this section.

(4) If, in cases pertaining to members of the Legislature, upon completion of a full and final investigation by the commission, the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution, the commission shall forward a copy of the complaint or referral and its findings by certified mail to the President of the Senate or the Speaker of the House of Representatives, whichever is applicable, who shall refer the complaint or referral to the appropriate committee for investigation and action which shall be governed by the rules of its respective house. It is the duty of the committee to report its final action upon the matter to the commission within 90 days of the date of transmittal to the respective house. Upon request of the committee, the commission shall submit a recommendation as to what penalty, if any, should be imposed. In the case of a member of the Legislature, the house in which the member serves has the power to invoke the penalty provisions of this part.

(5) If, in cases against impeachable officers, upon completion of a full and final investigation by the commission, the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution, and the commission finds that the violation may constitute grounds for impeachment, the commission shall forward a copy of the complaint or referral and its findings by certified mail to the Speaker of the House of Representatives, who shall refer the complaint or referral to the appropriate committee for investigation and action which shall be governed by the rules of the House of Representatives. It is the duty of the committee to report its final action upon the matter to the commission within 90 days of the date of transmittal.

(6) If the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution by an impeachable officer other than the Governor, and the commission recommends public censure and reprimand, forfeiture of a portion of the officer's salary, a civil penalty, or restitution, the commission shall report its findings and recommendation of disciplinary action to the Governor, who has the power to invoke the penalty provisions of this part.

(7) If the commission finds that there has been a violation of this part or of any provision of s. 8, Art. II of the State Constitution by the Governor, and the commission recommends public censure and reprimand, forfeiture of a portion of the Governor's salary, a civil penalty, or restitution, the commission shall report its findings and recommendation of disciplinary action to the Attorney General, who shall have the power to invoke the penalty provisions of this part.

(8) If, in cases other than complaints or referrals against impeachable officers or members of the Legislature, upon completion of a full and final investigation by the commission, the commission finds that there has been a violation of this part or of s. 8, Art. II of the State Constitution, it is the duty of the commission to report its findings and recommend appropriate action to the proper disciplinary official or body as follows, and such official or body has the power to invoke the penalty provisions of this part, including the power to order the appropriate elections official to remove a candidate from the ballot for a violation of s. 112.3145 or s. 8(a) and (i), Art. II of the State Constitution:

(a) The President of the Senate and the Speaker of the House of Representatives, jointly, in any case concerning the Public Counsel, members of the Public Service Commission, members of the Public Service Commission Nominating Council, the Auditor General, or the director of the Office of Program Policy Analysis and Government Accountability.

(b) The Supreme Court, in any case concerning an employee of the judicial branch.

(c) The President of the Senate, in any case concerning an employee of the Senate; the Speaker of the House of Representatives, in any case concerning an employee of the House of Representatives; or the President and the Speaker, jointly, in any case concerning an employee of a committee of the Legislature whose members are appointed solely by the President and the Speaker or in any case concerning an employee of the Public Counsel, Public Service Commission, Auditor General, or Office of Program Policy Analysis and Government Accountability.

(d) Except as otherwise provided by this part, the Governor, in the case of any other public officer, public employee, former public officer or public employee, candidate or former candidate, or person who is not a public officer or employee, other than lobbyists and lobbying firms under s. 112.3215 for violations of s. 112.3215.

(e) The President of the Senate or the Speaker of the House of Representatives, whichever is applicable, in any case concerning a former member of the Legislature who has violated a provision applicable to former members or whose violation occurred while a member of the Legislature.

(9) In addition to reporting its findings to the proper disciplinary body or official, the commission shall report these findings to the state attorney or any other appropriate official or agency having authority to initiate prosecution when violation of criminal law is indicated.

(10) Notwithstanding the foregoing procedures of this section, a sworn complaint against any member or employee of the Commission on Ethics for violation of this part or of s. 8, Art. II of the State Constitution shall be filed with the President of the Senate and the Speaker of the House of Representatives. Each presiding officer shall, after determining that there are sufficient grounds for review, appoint three members of their respective bodies to a special joint committee who shall investigate the complaint. The members shall elect a chair from among their number. If the special joint committee finds insufficient evidence to establish probable cause to believe a violation of this part or of s. 8, Art. II of the State Constitution has occurred, it shall dismiss the complaint. If, upon completion of its preliminary investigation, the committee finds sufficient evidence to establish probable cause to believe a violation has occurred, the chair thereof shall transmit such findings to the Governor who shall convene a meeting of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court to take such final action on the complaint as they shall deem appropriate, consistent with the penalty provisions of this part. Upon request of a majority of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, the special joint committee shall submit a recommendation as to what penalty, if any, should be imposed.

(11)(a) Notwithstanding subsections (1)-(8), the commission may dismiss any complaint or referral at any stage of disposition if it determines that the violation that is alleged or has occurred is a de minimis violation attributable to inadvertent or unintentional error. In determining whether a violation was de minimis, the commission shall consider whether the interests of the public were protected despite the violation. This subsection does not apply to complaints or referrals pursuant to ss. 112.3144 and 112.3145.

(b) For the purposes of this subsection, a de minimis violation is any violation that is unintentional and not material in nature.

(12) Notwithstanding the provisions of subsections (1)-(8), the commission may, at its discretion, dismiss any complaint or referral at any stage of disposition should it determine that the public interest would not be served by

proceeding further, in which case the commission shall issue a public report stating with particularity its reasons for the dismissal.

History.—s. 2, ch. 74-176; s. 5, ch. 75-199; s. 3, ch. 83-282; s. 30, ch. 90-360; s. 14, ch. 91-85; s. 11, ch. 94-277; s. 1417, ch. 95-147; s. 2, ch. 95-354; s. 4, ch. 96-311; s. 3, ch. 97-293; s. 14, ch. 2000-151; s. 17, ch. 2000-331; s. 30, ch. 2001-266; s. 1, ch. 2002-186; s. 1, ch. 2005-186; s. 17, ch. 2008-4; s. 3, ch. 2009-126; s. 1, ch. 2010-116; s. 1, ch. 2010-130; s. 18, ch. 2011-34; s. 17, ch. 2013-36; s. 1, ch. 2013-38; s. 18, ch. 2014-17.

112.3241 Judicial review.—Any final action by the commission taken pursuant to this part shall be subject to review in a district court of appeal upon the petition of the party against whom an adverse opinion, finding, or recommendation is made.

History.—s. 6, ch. 75-199; s. 4, ch. 84-318.

112.3251 Citizen support and direct-support organizations; standards of conduct.—A citizen support or direct-support organization created or authorized pursuant to law must adopt its own ethics code. The ethics code must contain the standards of conduct and disclosures required under ss. 112.313 and 112.3143(2), respectively. However, an ethics code adopted pursuant to this section is not required to contain the standards of conduct specified in s. 112.313(3) or (7). The citizen support or direct-support organization may adopt additional or more stringent standards of conduct and disclosure requirements if those standards of conduct and disclosure requirements do not otherwise conflict with this part. The ethics code must be conspicuously posted on the citizen support or direct-support organization's website.

History.—s. 5, ch. 2014-183.

112.326 Additional requirements by political subdivisions and agencies not prohibited.—Nothing in this act shall prohibit the governing body of any political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, provided that those standards of conduct and disclosure requirements do not otherwise conflict with the provisions of this part.

History.—s. 5, ch. 75-196; s. 12, ch. 94-277.

112.3261 Lobbying before water management districts; registration and reporting.—

(1) As used in this section, the term:

(a) "District" means a water management district created in s. 373.069 and operating under the authority of chapter 373.

(b) "Lobbies" means seeking, on behalf of another person, to influence a district with respect to a decision of the district in an area of policy or procurement or an attempt to obtain the goodwill of a district official or employee. The term "lobbies" shall be interpreted and applied consistently with the rules of the commission implementing s. 112.3215.

(c) "Lobbyist" has the same meaning as provided in s. 112.3215.

(d) "Principal" has the same meaning as provided in s. 112.3215.

(2) A person may not lobby a district until such person has registered as a lobbyist with that district. Such registration shall be due upon initially being retained to lobby and is renewable on a calendar-year basis thereafter. Upon registration, the person shall provide a statement signed by the principal or principal's representative stating that the registrant is authorized to represent the principal. The principal shall also identify and designate its main business on the statement authorizing that lobbyist pursuant to a classification system approved by the district. Any changes to the information required by this section must be disclosed within 15 days by filing a new registration form. The registration form shall require each lobbyist to disclose, under oath, the following:

(a) The lobbyist's name and business address.

(b) The name and business address of each principal represented.

(c) The existence of any direct or indirect business association, partnership, or financial relationship with any officer or employee of a district with which he or she lobbies or intends to lobby.

(d) In lieu of creating its own lobbyist registration forms, a district may accept a completed legislative branch or executive branch lobbyist registration form.

(3) A district shall make lobbyist registrations available to the public. If a district maintains a website, a database of currently registered lobbyists and principals must be available on the district's website.

(4) A lobbyist shall promptly send a written statement to the district canceling the registration for a principal upon termination of the lobbyist's representation of that principal. A district may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the district that a person is no longer authorized to represent that principal.

(5) A district may establish an annual lobbyist registration fee, not to exceed $40, for each principal represented. The district may use registration fees only to administer this section.

(6) A district shall be diligent to ascertain whether persons required to register pursuant to this section have complied. A district may not knowingly authorize a person who is not registered pursuant to this section to lobby the district.

(7) Upon receipt of a sworn complaint alleging that a lobbyist or principal has failed to register with a district or has knowingly submitted false information in a report or registration required under this section, the commission shall investigate a lobbyist or principal pursuant to the procedures established under s. 112.324. The commission shall provide the Governor with a report of its findings and recommendations in any investigation conducted pursuant to this subsection. The Governor is authorized to enforce the commission's findings and recommendations.

(8) Water management districts may adopt rules to establish procedures to govern the registration of lobbyists, including the adoption of forms and the establishment of a lobbyist registration fee.

History.—s. 6, ch. 2014-183.

PART IV
SUPPLEMENTAL RETIREMENT ACT FOR RETIRED MEMBERS OF STATE RETIREMENT SYSTEMS

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112.351 Short title.—This act shall be known and cited as the "Florida Supplemental Retirement Act for Retired Members of State Retirement Systems."

History.—s. 1, ch. 67-276.

112.352 Definitions.—The following words and phrases as used in this act shall have the following meaning unless a different meaning is required by the context:

(1) "Funds" shall mean the special trust funds in the State Treasury created under each of the retirement laws covered by this act.

(2) "Retired member" shall mean any person who had both attained age 65 and retired prior to January 1, 1966, and is receiving benefits under any of the following systems:

(a) State and County Officers and Employees Retirement System, created by authority of chapter 122.

(b) Supreme Court Justices, District Courts of Appeal Judges and Circuit Judges Retirement System, created by authority of former chapter 123.

(c) Teachers' Retirement System of the state, created by authority of chapter 238; or

(d) Highway Patrol Pension Trust Fund, created by authority of chapter 321.

(3) "Joint annuitant" means any person named by a retired member under the applicable system to receive any retirement benefits due and payable from the system after the member's death.

(4) "System" shall mean any of the retirement systems specified in subsection (2).

(5) "Social security benefit" shall mean the monthly primary insurance amount, computed in accordance with the Social Security Act from which is derived the monthly benefit amount, which the retired member is receiving, entitled to receive, or would be entitled to receive upon application to the Social Security Administration, without taking into account any earned income which would cause a reduction in such amount. For purposes of this act, the social security benefit of:

(a) A retired member who is not insured under the Social Security Act shall be zero, and

(b) A deceased retired member who was insured under the Social Security Act shall be the primary insurance amount from which is derived the monthly benefit amount which the member was receiving or entitled to receive in the month immediately preceding his or her date of death.

(6) "Retirement benefit" means the monthly benefit which a retired member or joint annuitant is receiving from a system.

(7) "Department" means the Department of Management Services.

(8) "Base year" means the year in which a retired member actually retired from a system or the year in which the member attained age 65, if later.

History.—s. 2, ch. 67-276; ss. 31, 35, ch. 69-106; s. 35, ch. 71-377; s. 1, ch. 73-326; s. 45, ch. 92-279; s. 55, ch. 92-326; s. 706, ch. 95-147; s. 1, ch. 95-154; s. 44, ch. 99-2; s. 14, ch. 99-255.

112.353 Purpose of act.—The purpose of this act is to provide a supplement to the monthly retirement benefits being paid to, or with respect to, retired members under the retirement systems specified in s. 112.352(2) and any permanently and totally disabled retired member who became thus disabled in the line of duty and while performing the duties incident to his or her employment, such supplement to be approximately equal to the excess of the increase in social security benefits that the retired member would have received had he or she been covered for maximum benefits under the Social Security Act at age 65 or at date of retirement, whichever is later, over the amount of increase he or she has previously received or is entitled to receive by virtue of coverage under the Social Security Act.

History.—s. 3, ch. 67-276; s. 707, ch. 95-147.

112.354 Eligibility for supplement.—Each retired member or, if applicable, a joint annuitant, except any person receiving survivor benefits under the teachers' retirement system of the state in accordance with s. 238.07(18), shall be entitled to receive a supplement computed in accordance with s. 112.355 upon:

(1) Furnishing to the Department of Management Services evidence from the Social Security Administration setting forth the retired member's social security benefit or certifying the noninsured status of the retired member under the Social Security Act, and

(2) Filing written application with the Department of Management Services for such supplement.

History.—s. 4, ch. 67-276; ss. 31, 35, ch. 69-106; s. 1, ch. 73-326; s. 15, ch. 99-255; s. 7, ch. 2010-5.

112.355 Supplement amount.—

(1) The supplement amount shall be calculated in the following manner, based on the retired member's social security benefit and the table of values below:

TABLE OF VALUES

Base Year	I	II	III	IV
Prior to 1951	$57.00	$34.00	$58.00	$102.00

TABLE OF VALUES

Base Year	I	II	III	IV
1951-1952	33.00	24.00	69.00	113.00
1953-1954	28.00	19.00	69.00	113.00
1955-1958	16.00	14.00	81.00	125.00
1959-1965	9.00	4.00	92.00	136.00

(2) The supplement amount for a retired member whose social security benefit is less than $44 shall be equal to (a) minus the product of (b) and (c) where:

(a) Is the value shown in column I of the table of values for the retired member's base year,

(b) Is the value shown in column II of the table of values for the retired member's base year, and

(c) Is the retired member's social security benefit divided by $44, subject to the provisions of subsection (4).

(3) The supplement amount for a retired member whose social security benefit is $44 or more shall be equal to the product of paragraphs (a) and (b) of this subsection where:

(a) Is the difference between the value shown in column I and column II of the table of values for the retired member's base year, and

(b) Is the value shown in column IV of the table of values for the retired member's base year minus the retired member's social security benefit, such difference divided by the value shown in column III of the table of values. In no event shall (b), as calculated in the previous sentence, be less than zero; subject to the provisions of subsection (4).

(4) The supplement amount for any retired member of, if applicable, a joint annuitant, who is receiving a retirement benefit of lesser amount than the normal retirement benefit to which the retired member was entitled at time of retirement because of early retirement or election of an optional form of payment, shall be reduced to an amount equal to the product of paragraphs (a) and (b) of this subsection where:

(a) Is the reduced retirement benefit such member or joint annuitant is receiving divided by the normal retirement benefit to which the retired member was entitled at retirement, and

(b) Is the supplement amount computed in accordance with subsection (2) or subsection (3), whichever is applicable.

(5) The supplement amount calculated in accordance with this section shall be rounded to the nearest dollar.

History.—s. 5, ch. 67-276; s. 708, ch. 95-147.

112.356 Payment of supplement.—Any supplement due and payable under this act shall be paid by the department or under the direction and control of the department, based on information furnished by the retired member, or a joint annuitant, and the administrator of the system under which retirement benefits are being paid, beginning on the first day of the month coincident with or next following the later of the effective date of this act and the date of approval of the application for supplement by the department, and payable thereafter on the first day of each month in the normal or optional form in which retirement benefits under the applicable system are being paid; provided, however, that if application for supplement is made subsequent to December 31, 1967, not more than 6 retroactive monthly supplements shall be paid.

History.—s. 6, ch. 67-276; ss. 31, 35, ch. 69-106; s. 16, ch. 99-255.

112.357 Appropriation.—There is hereby appropriated annually from the respective retirement trust fund from which the retired member is receiving his or her normal retirement benefit, an amount necessary to provide the benefits hereunder, and the amount necessary for the effective and efficient administration of this act.

History.—s. 7, ch. 67-276; s. 709, ch. 95-147.

112.359 Benefits exempt from taxes and execution.—The benefits provided for any person under the provisions of this act are exempt from any state, county or municipal tax of the state and shall not be subject to assignment, execution or attachment or to any legal process whatsoever.

History.—s. 9, ch. 67-276.

112.360 Amendments.—References in this act to state and federal laws are intended to include such laws as they now exist or may hereafter be amended.

History.—s. 10, ch. 67-276.

112.361 Additional and updated supplemental retirement benefits.—

(1) SHORT TITLE.—This section shall be known and cited as "The 1969 Florida Supplemental Retirement Act."

(2) DEFINITIONS.—As used in this section, unless a different meaning is required by the context:

(a) "Funds" means the special trust funds in the State Treasury created under each of the retirement laws covered by this section.

(b) "Retired member" means any person:

1. Who either:

a. Had both attained age 65 and retired for reasons other than disability prior to January 1, 1968; or

b. Had retired because of disability prior to January 1, 1968, and who, if he or she had been covered under the Social Security Act, would have been eligible for disability benefits under Title II of the Social Security Act; and

2. Who is receiving benefits under any of the following systems:

a. State and County Officers and Employees Retirement System created by authority of chapter 122;

b. Supreme Court Justices, District Courts of Appeal Judges and Circuit Judges Retirement System created by authority of former chapter 123;

c. Teachers' Retirement System of the state created by authority of chapter 238; or

d. Highway Patrol Pension Trust Fund created by authority of chapter 321.

In addition, "retired member" includes any state official or state employee who retired prior to January 1, 1958, and is receiving benefits by authority of s. 112.05.

(c) "Joint annuitant" means any person named by a retired member under the applicable system to receive any retirement benefits due and payable from the system after his or her death.

(d) "System" means any of the retirement systems specified in paragraph (b), including that pursuant to s. 112.05.

(e) "Social security benefit" means the monthly primary insurance amount, computed in accordance with the Social Security Act, from which is derived the monthly benefit amount which the retired member is receiving, entitled to receive, or would be entitled to receive upon application to the Social Security Administration, without taking into account any earned income which would cause a reduction in such amount. For purposes of this section:

1. The social security benefit of a retired member who is not insured under the Social Security Act shall be zero, and

2. The social security benefit of a deceased retired member who was insured under the Social Security Act shall be the primary insurance amount from which is derived the monthly benefit amount which the member was receiving or entitled to receive in the month immediately preceding his or her date of death.

(f) "Retirement benefit" means the monthly benefit which a retired member or joint annuitant is receiving from a system.

(g) "Department" means the Department of Management Services.

(3) PURPOSE OF SECTION.—The purpose of this section is to provide a supplement to the monthly retirement benefits being paid to, or with respect to, retired members under the retirement systems specified in paragraph (2)(b), such supplement to be approximately equal to the excess of the increase in social security benefits that the retired member would have received as a result of the 1967 amendments to the Social Security Act had he or she been covered for maximum benefits under the Social Security Act at age 65 or at date of retirement, whichever is later, over the amount of increase he or she has previously received or is entitled to receive as a result of the 1967 amendments to the Social Security Act by virtue of coverage under the Social Security Act.

(4) ELIGIBILITY FOR SUPPLEMENT.—Each retired member or, if applicable, a joint annuitant, except any person receiving survivor's benefits under the Teachers' Retirement System of the state in accordance with s. 238.07(18), shall be entitled to receive a supplement computed in accordance with subsection (5), upon:

(a) Furnishing to the department evidence from the Social Security Administration setting forth the retired member's social security benefit or certifying the noninsured status of the retired member under the Social Security Act, and

(b) Filing written application with the department for such supplement.

(5) SUPPLEMENT AMOUNT.—

(a) The supplement amount for any retired member who is receiving the full normal retirement benefit to which the member was entitled at time of retirement shall be equal to $18 minus 11.5 percent of the member's social security benefit.

(b) The supplement amount for any retired member or, if applicable, a joint annuitant, who is receiving a retirement benefit of lesser amount than the normal retirement benefit to which the retired member was entitled at time of retirement because of early retirement or election of an optional form of payment, shall be reduced to an amount equal to the product of subparagraphs 1. and 2. where:

1. Is the reduced retirement benefit such member or joint annuitant is receiving divided by the normal retirement benefit to which the retired member was entitled at retirement; and

2. Is the supplement amount computed in accordance with paragraph (a) of this subsection.

(c) The supplement amount calculated in accordance with this subsection shall be rounded to the nearest dollar.

(6) PAYMENT OF SUPPLEMENT.—Any supplement due and payable under this section shall be paid by the department or under the direction and control of the department, based on information furnished by the retired member, or a joint annuitant, and the administrator of the system under which retirement benefits are being paid, beginning on the first day of the month coincident with or next following the later of:

(a) July 1, 1969, or

(b) The date of approval of the application for supplement by the department,

and payable thereafter on the first day of each month in the normal or optional form in which retirement benefits under the applicable system are being paid. However, no retroactive monthly supplements shall be paid for any period prior to the date specified in this paragraph.

(7) APPROPRIATION.—

(a) There is hereby appropriated annually from the respective retirement trust fund from which the retired member is receiving his or her retirement benefit an amount necessary to provide the benefits hereunder and the amount necessary for the effective and efficient administration of this section.

(b) Amounts necessary to provide for benefits and expenses hereunder on behalf of retired members receiving benefits pursuant to s. 112.05 are hereby annually appropriated out of any moneys in the State Treasury not otherwise appropriated which amount out of the general revenue fund shall not exceed $50,000 annually.

(8) BENEFITS EXEMPT FROM TAXES AND EXECUTION.—The benefits provided for any person under the provisions of this section are exempt from any state, county, or municipal tax and shall not be subject to assignment, execution, or attachment or to any legal process whatsoever.

(9) AMENDMENTS.—References in this section to state and federal laws are intended to include such laws as they now exist or may hereafter be amended.

History.—s. 1, ch. 69-126; ss. 31, 35, ch. 69-106; s. 36, ch. 71-377; s. 1, ch. 73-326; s. 46, ch. 92-279; s. 55, ch. 92-326; s. 710, ch. 95-147; s. 2, ch. 95-154; s. 45, ch. 99-2; s. 18, ch. 99-255; s. 8, ch. 2010-5; s. 6, ch. 2013-18.

112.362 Recomputation of retirement benefits.—

(1)(a) A member of any state-supported retirement system who retired prior to July 1, 1987, who has not less than 10 years of creditable service, and who is not entitled to the minimum benefit provided for in paragraph (b), upon reaching 65 years of age and upon application to the administrator of his or her retirement system, may have his or her present monthly retirement benefits recomputed and receive a monthly retirement allowance equal to $8 multiplied by the total number of years of creditable service. Effective July 1, 1980, this minimum monthly benefit shall be equal to $10.50 multiplied by the total number of years of creditable service, and thereafter said minimum monthly benefit

shall be recomputed as provided in paragraph (5)(a). No present retirement benefits shall be reduced under this computation.

(b) A member of any state-supported retirement system who has already retired under a retirement plan or system which does not require its members to participate in social security pursuant to a modification of the federal-state social security agreement as authorized by the provisions of chapter 650, who is over 65 years of age, and who has more than 15 years of creditable service, upon application to the administrator, may have his or her present monthly retirement benefits recomputed and receive a monthly retirement allowance equal to $8 multiplied by the first 15 years of creditable service and $10 multiplied by every additional year of creditable service thereafter. No present retirement benefits shall be reduced under this computation. The minimum monthly benefit provided by this paragraph shall not apply to any member or the beneficiary of any member who retires after June 30, 1978.

(c) A member of any state-supported retirement system who, during the period July 1, 1975, through June 30, 1976, was on the retired payroll with more than 15 years of creditable service, was over 65 years of age, and was not eligible for the $10 minimum benefit provided by paragraph (b) shall receive the $8 minimum benefit provided by paragraph (a) retroactive to the date such retired person would first have been eligible for the $8 minimum benefit under the provisions of this section, had said section not been amended by chapter 75-242, Laws of Florida. Such retroactive $8 minimum benefit shall also be payable to the beneficiary or surviving spouse of a member who, if living, would have qualified for this retroactive minimum benefit.

(d) A member of any state-supported retirement system who retires on or after July 1, 1987, with at least 10 years of creditable service, having attained normal retirement date shall, upon reaching age 65 and making proper application to the administrator, be eligible to receive the applicable minimum monthly benefit provided by this subsection with the exception that only those years of creditable service accumulated by the member through June 30, 1987, shall be used in the calculation of the minimum monthly benefit amount and that no benefit shall exceed the average monthly compensation of the retiree due to the application of the minimum monthly benefit. All creditable service claimed for periods which occurred prior to July 1, 1987, shall be presumed to have been accumulated as of June 30, 1987, irrespective of the date on which such creditable service is claimed and credited. The minimum monthly benefit provided by this paragraph shall be reduced by the actuarial factor applied to the optional form of benefit under which the benefit is paid. The surviving spouse or beneficiary who is receiving a monthly benefit from a deceased retiree's account shall be eligible to receive the minimum monthly benefit provided herein at the time the retiree would have been eligible for it had he or she lived, subject to the limitations herein and the appropriate actuarial reductions.

(2)(a) A retired member of any state-supported retirement system who retires prior to July 1, 1987, and who possesses the creditable service requirements contained in paragraph (1)(a) or paragraph (1)(b), or the surviving spouse or beneficiary of said member if such spouse or beneficiary is receiving a retirement benefit, shall, at the time the retiree reaches 65 years of age or would have reached 65 years of age if deceased, and upon proper application to the administrator, have his or her monthly retirement benefit recomputed and may receive a retirement benefit as provided in either paragraph (1)(a) or paragraph (1)(b) and, if a retirement option has been elected by the member, multiplied by the actuarial reduction factor relating to such retirement option and, if the member is deceased, multiplied by the percentage of the benefit payable to the surviving spouse or beneficiary. No present retirement benefits shall be reduced under this computation.

(b) A member of any state-supported retirement system who retires after July 1, 1975, and before July 1, 1987, who is over 65 years of age at the time of his or her retirement may be entitled to the benefit recalculation options provided by either paragraph (1)(a) or paragraph (1)(b).

(3) A member of any state-supported retirement system who has already retired under a retirement plan or system which does not require its members to participate in social security pursuant to a modification of the federal-state social security agreement as authorized by the provisions of chapter 650, who is over 65 years of age, and who has not less than 10 years of creditable service, or the surviving spouse or beneficiary of said member who, if living, would be over 65 years of age, upon application to the administrator, may have his or her present monthly retirement benefits recomputed and receive a monthly retirement allowance equal to $10 multiplied by the total number of years of creditable service. Effective July 1, 1978, this minimum monthly benefit shall be equal to $10.50 multiplied by the

total number of years of creditable service, and thereafter said minimum monthly benefit shall be recomputed as provided in paragraph (5)(a). This adjustment shall be made in accordance with subsection (2). No retirement benefits shall be reduced under this computation. Retirees receiving additional benefits under the provisions of this subsection shall also receive the cost-of-living adjustments provided by the appropriate state-supported retirement system for the fiscal year beginning July 1, 1977, and for each fiscal year thereafter. The minimum monthly benefit provided by this subsection shall not apply to any member or the beneficiary of any member who retires after June 30, 1978.

(4)(a) Effective July 1, 1980, any person who retired prior to July 1, 1987, under a state-supported retirement system with not less than 10 years of creditable service and who is not receiving or entitled to receive federal social security benefits shall, upon reaching 65 years of age and upon application to the Department of Management Services, be entitled to receive a minimum monthly benefit equal to $16.50 multiplied by the member's total number of years of creditable service and adjusted by the actuarial factor applied to the original benefit for optional forms of retirement. Thereafter, the minimum monthly benefit shall be recomputed as provided in paragraph (5)(a). Application for this minimum monthly benefit shall include certification by the retired member that he or she is not receiving and is not entitled to receive social security benefits and shall include written authorization for the Department of Management Services to have access to information from the Federal Social Security Administration concerning the member's entitlement to or eligibility for social security benefits. The minimum benefit provided by this paragraph shall not be paid unless and until the application requirements of this paragraph are satisfied.

(b) Effective July 1, 1978, the surviving spouse or beneficiary who is receiving or entitled to receive a monthly benefit commencing prior to July 1, 1987, from the account of any deceased retired member who had completed at least 10 years of creditable service shall, at the time such deceased retiree would have reached age 65, if living, and, upon application to the Department of Management Services, be entitled to receive the minimum monthly benefit described in paragraph (a), adjusted by the actuarial factor applied to the optional form of benefit payable to said surviving spouse or beneficiary, provided said person is not receiving or entitled to receive federal social security benefits. Application for this minimum monthly benefit shall include certification by the surviving spouse or beneficiary that he or she is not receiving and is not entitled to receive social security benefits and shall include written authorization for the Department of Management Services to have access to information from the Federal Social Security Administration concerning such person's entitlement to or eligibility for social security benefits. The minimum benefit provided by this paragraph shall not be paid unless and until the application requirements of this paragraph are satisfied.

(c) The minimum benefits authorized by this subsection shall be payable from the first day of the month following the month during which the retired member becomes or would have become age 65.

(d) A member of any state-supported retirement system who retires on or after July 1, 1987, with at least 10 years of creditable service, having attained normal retirement date shall, upon reaching age 65 and making proper application to the administrator, be eligible to receive the applicable minimum monthly benefit provided by this subsection with the exception that only those years of creditable service accumulated by the member through June 30, 1987, shall be used in the calculation of the minimum monthly benefit amount and that no benefit shall exceed the average monthly compensation of the retiree due to the application of the minimum monthly benefit. All creditable service claimed for periods which occurred prior to July 1, 1987, shall be presumed to have been accumulated as of June 30, 1987, irrespective of the date on which such creditable service is claimed and credited. The minimum monthly benefit provided by this paragraph shall be reduced by the actuarial factor applied to the optional form of benefit under which the benefit is paid. The surviving spouse or beneficiary who is receiving a monthly benefit from a deceased retiree's account shall be eligible to receive the minimum monthly benefit provided herein at the time the retiree would have been eligible for it had he or she lived, subject to the limitations herein and the appropriate actuarial reductions.

(5)(a) Effective July 1, 1981, the dollar factors used in determining the minimum benefits provided by this section shall be adjusted by an amount derived by multiplying said dollar factors by the percentage change in the average cost-of-living index since the previous July 1, not to exceed 3 percent. Each July 1 thereafter, the adjusted dollar factors used in determining the minimum benefits provided by this section shall continue to be adjusted by an amount

derived by multiplying the current adjusted dollar factors by the percentage change in the average cost-of-living index since the previous July 1, not to exceed 3 percent for any annual adjustment.

(b) "Average cost-of-living index" as of any July 1 date means the average of the monthly Consumer Price Index figures for the 12-month period from April 1 through March 31 immediately prior to the adjustment date, relative to the United States as a whole, issued by the Bureau of Labor Statistics of the United States Department of Labor.

(c) Effective July 1, 1987, the adjusted dollar factors used in determining the minimum benefits provided by this section shall be adjusted by a constant 3 percent.

(6) The funds necessary to pay the minimum monthly benefits provided by this section are hereby annually appropriated from the fund from which the original benefits are paid.

(7) A member, or a joint annuitant or other beneficiary, who is receiving a monthly benefit may refuse the application of the minimum benefit adjustment to such benefit.

History.—s. 1, ch. 70-224; s. 1, ch. 72-282; ss. 1, 2, 3, ch. 75-242; ss. 1, 2, ch. 76-228; s. 1, ch. 77-241; s. 1, ch. 78-364; s. 6, ch. 79-377; s. 1, ch. 80-242; s. 2, ch. 81-307; s. 3, ch. 85-246; s. 1, ch. 86-137; s. 2, ch. 88-382; s. 711, ch. 95-147; s. 19, ch. 99-255; s. 1, ch. 2000-347; s. 8, ch. 2016-10.

112.363 Retiree health insurance subsidy.—

(1) PURPOSE OF SECTION.—The purpose of this section is to provide a monthly subsidy payment to retired members of any state-administered retirement system in order to assist such retired members in paying the costs of health insurance.

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

(a) A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(18)(a), and 250.22, recipients of health insurance coverage under s. 110.1232, or any other special pension or relief act shall not be eligible for such payments.

(b) For purposes of this section, a person is deemed retired from a state-administered retirement system when he or she terminates employment with all employers participating in the Florida Retirement System as described in s. 121.021(39) and:

1. For a member of the investment plan established under part II of chapter 121, the participant meets the age or service requirements to qualify for normal retirement as set forth in s. 121.021(29) and meets the definition of retiree in s. 121.4501(2).

2. For a member of the Florida Retirement System Pension Plan, or any employee who maintains creditable service under the pension plan and the investment plan, the member begins drawing retirement benefits from the pension plan.

(c) Effective July 1, 2001, any person retiring on or after that date as a member of the Florida Retirement System, including a member of the investment plan administered pursuant to part II of chapter 121, must have satisfied the vesting requirements for his or her membership class under the pension plan as administered under part I of chapter 121. However, a person retiring due to disability must qualify for a regular or in-line-of-duty disability benefit as provided in s. 121.091(4) or qualify for a disability benefit under a disability plan established under part II of chapter 121, as appropriate.

(d) Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the Department of Management Services. Participation in a former employer's group health insurance program is not a requirement for eligibility under this section. Coverage issued pursuant to s. 408.9091 is considered health insurance for the purposes of this section.

(e) Participants in the Senior Management Service Optional Annuity Program as provided in s. 121.055(6) and the State University System Optional Retirement Program as provided in s. 121.35 shall not receive the retiree health insurance subsidy provided in this section. The employer of such participant shall pay the contributions required in subsection (8) to the annuity program provided in s. 121.055(6)(d) or s. 121.35(4)(a), as applicable.

(3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

(a) Beginning January 1, 1988, each eligible retiree or a beneficiary who is a spouse or financial dependent thereof shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by $1; however, no retiree may receive a subsidy payment of more than $30 or less than $10.

(b) Beginning January 1, 1989, each eligible retiree or a beneficiary who is a spouse or financial dependent shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by $2; however, no retiree may receive a subsidy payment of more than $60 or less than $20.

(c) Beginning January 1, 1991, each eligible retiree or a beneficiary who is a spouse or financial dependent shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by $3; however, no retiree may receive a subsidy payment of more than $90 or less than $30.

(d) Beginning January 1, 1999, each eligible retiree or, if the retiree is deceased, his or her beneficiary who is receiving a monthly benefit from such retiree's account and who is a spouse, or a person who meets the definition of joint annuitant in s. 121.021(28), shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by $5; however, no eligible retiree or such beneficiary may receive a subsidy payment of more than $150 or less than $50. If there are multiple beneficiaries, the total payment must not be greater than the payment to which the retiree was entitled.

(e)1. Beginning July 1, 2001, each eligible retiree of the pension plan of the Florida Retirement System, or, if the retiree is deceased, his or her beneficiary who is receiving a monthly benefit from such retiree's account and who is a spouse, or a person who meets the definition of joint annuitant in s. 121.021, shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021, completed at the time of retirement multiplied by $5; however, no eligible retiree or beneficiary may receive a subsidy payment of more than $150 or less than $30. If there are multiple beneficiaries, the total payment may not be greater than the payment to which the retiree was entitled. The health insurance subsidy amount payable to any person receiving the retiree health insurance subsidy payment on July 1, 2001, may not be reduced solely by operation of this subparagraph.

2. Beginning July 1, 2002, each eligible member of the investment plan of the Florida Retirement System who has met the requirements of this section, or, if the member is deceased, his or her spouse who is the member's designated beneficiary, shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as provided in this subparagraph, completed at the time of retirement, multiplied by $5; however, an eligible retiree or beneficiary may not receive a subsidy payment of more than $150 or less than $30. For purposes of determining a member's creditable service used to calculate the health insurance subsidy, a member's years of service credit or fraction thereof shall be based on the member's work year as defined in s. 121.021(54). Credit must be awarded for a full work year if health insurance subsidy contributions have been made for each month in the member's work year. In addition, all years of creditable service retained under the Florida Retirement System Pension Plan must be included as creditable service for purposes of this section. Notwithstanding any other provision in this section, the spouse at the time of death is the member's beneficiary unless such member has designated a different beneficiary subsequent to the member's most recent marriage.

(4) PAYMENT OF RETIREE HEALTH INSURANCE SUBSIDY.—Beginning January 1, 1988, any monthly retiree health insurance subsidy amount due and payable under this section shall be paid to retired members by the Department of Management Services or under the direction and control of the department.

(5) TRUST FUND ESTABLISHED.—There is hereby established a trust fund in the state treasury to be entitled the Retiree Health Insurance Subsidy Trust Fund. Said trust fund shall be used to account for all moneys received and disbursed pursuant to this section. Should funding for the retiree health insurance subsidy program fail to provide full benefits for all participants, the benefits may be reduced or canceled at any time.

(6) INVESTMENTS OF THE TRUST FUND.—The State Board of Administration created by the authority of the State Constitution shall invest and reinvest the funds of the trust fund in accordance with ss. 215.44-215.53. Costs

incurred by the Board of Administration incurring from the provisions of this section shall be deducted from the interest earnings accruing to the trust fund.

(7) ADMINISTRATION OF SYSTEM.—The Department of Management Services may adopt such rules and regulations as are necessary for the effective and efficient administration of this section. The cost of administration shall be appropriated from the trust fund.

(8) CONTRIBUTIONS.—For purposes of funding the insurance subsidy provided by this section:

(a) Beginning October 1, 1987, the employer of each member of a state-administered retirement plan shall contribute 0.24 percent of gross compensation each pay period.

(b) Beginning January 1, 1989, the employer of each member of a state-administered retirement plan shall contribute 0.48 percent of gross compensation each pay period.

(c) Beginning January 1, 1994, the employer of each member of a state-administered retirement plan shall contribute 0.56 percent of gross compensation each pay period.

(d) Beginning January 1, 1995, the employer of each member of a state-administered retirement plan shall contribute 0.66 percent of gross compensation each pay period.

(e) Beginning July 1, 1998, the employer of each member of a state-administered retirement plan shall contribute 0.94 percent of gross compensation each pay period.

(f) Beginning July 1, 2001, the employer of each member of a state-administered plan shall contribute 1.11 percent of gross compensation each pay period.

(g) Beginning July 1, 2013, the employer of each member of a state-administered plan shall contribute 1.20 percent of gross compensation each pay period.

(h) Beginning July 1, 2014, the employer of each member of a state-administered plan shall contribute 1.26 percent of gross compensation each pay period.

(i) Beginning July 1, 2015, the employer of each member of a state-administered plan shall contribute 1.66 percent of gross compensation each pay period.

Such contributions shall be submitted to the Department of Management Services and deposited in the Retiree Health Insurance Subsidy Trust Fund.

(9) BENEFITS.—Subsidy payments shall be payable under the retiree health insurance subsidy program only to participants in the program or their beneficiaries, beginning with the month the division receives certification of coverage for health insurance for the eligible retiree or beneficiary. If the division receives such certification at any time during the 6 months after retirement benefits commence, the retiree health insurance subsidy shall be paid retroactive to the effective retirement date. If, however, the division receives such certification 7 or more months after commencement of benefits, the retroactive retiree health insurance subsidy payment will cover a maximum of 6 months. Such subsidy payments shall not be subject to assignment, execution, or attachment or to any legal process whatsoever.

History.—s. 4, ch. 87-373; s. 3, ch. 88-382; s. 2, ch. 90-274; s. 47, ch. 92-279; s. 55, ch. 92-326; s. 2, ch. 93-193; s. 2, ch. 94-259; s. 1, ch. 98-413; s. 20, ch. 99-255; s. 18, ch. 2000-169; s. 13, ch. 2001-262; s. 1, ch. 2004-71; s. 1, ch. 2008-32; s. 9, ch. 2010-5; s. 3, ch. 2011-68; s. 1, ch. 2013-53; s. 1, ch. 2014-54; s. 1, ch. 2015-227.

PART V
SUSPENSION, REMOVAL, OR RETIREMENT OF PUBLIC OFFICERS

112.40 Disposition of order of suspension.
112.41 Contents of order of suspension; Senate select committee; special magistrate.
112.42 Period during which grounds may have occurred.
112.43 Prosecution of suspension before Senate.
112.44 Failure to prove charges; payment of attorney's fees or salary.
112.45 Senate's report; results of prosecution.

112.46 Period during which suspension will lie.
112.47 Hearing before Senate select committee; notice.
112.48 Suspension when Senate not in session.
112.49 Persons exercising powers and duties of county officers subject to suspension by Governor.
112.50 Governor to retain power to suspend public officers.
112.501 Municipal board members; suspension; removal.
112.51 Municipal officers; suspension; removal from office.
112.511 Members of special district governing bodies; suspension; removal from office.
112.52 Removal of a public official when a method is not otherwise provided.

112.40 Disposition of order of suspension.—An order of suspension by the Governor, upon its execution, shall be delivered to the Department of State. The department shall forthwith deliver copies by registered mail, or otherwise as it may be advised, to the officer suspended, the Secretary of the Senate, and the Attorney General. The order of suspension shall be effective upon the filing of the same with the department of state. No further communication by the Governor with the Senate shall be necessary to permit the Senate to act.

History.—s. 1, ch. 69-277; ss. 10, 35, ch. 69-106.

112.41 Contents of order of suspension; Senate select committee; special magistrate.—

(1) The order of the Governor, in suspending any officer pursuant to the provisions of s. 7, Art. IV of the State Constitution, shall specify facts sufficient to advise both the officer and the Senate as to the charges made or the basis of the suspension.

(2) The Senate shall conduct a hearing in the manner prescribed by rules of the Senate adopted for this purpose.

(3) The Senate may provide for a select committee to be appointed by the Senate in accordance with its rules for the purpose of hearing the evidence and making its recommendation to the Senate as to the removal or reinstatement of the suspended officer.

(4) The Senate may, in lieu of the use of a select committee, appoint a special magistrate to receive the evidence and make recommendations to the Senate.

History.—s. 2, ch. 69-277; s. 60, ch. 2004-11.

112.42 Period during which grounds may have occurred.—The Governor may suspend any officer on any constitutional ground for such suspension that occurred during the existing term of the officer or during the next preceding 4 years.

History.—s. 3, ch. 69-277; s. 1, ch. 71-333.

112.43 Prosecution of suspension before Senate.—All suspensions heard by the Senate, a select committee, or special magistrate in accordance with rules of the Senate shall be prosecuted by the Governor, the Governor's legal staff, or an attorney designated by the Governor. Should the Senate, or the select committee appointed by the Senate to hear the evidence and to make recommendations, desire private counsel, either the Senate or the select committee shall be entitled to employ its own counsel for this purpose. Nothing herein shall prevent the Senate or its select committee from making its own investigation and presenting such evidence as its investigation may reveal. The Governor may request the advice of the Department of Legal Affairs relative to the suspension order prior to its issuance by the Governor. Following the issuance of the suspension order, either the Senate or the select committee may request the Department of Legal Affairs to provide counsel for the Senate to advise on questions of law or otherwise advise with the Senate or the select committee, but the Department of Legal Affairs shall not be required to prosecute before the Senate or the committee and shall, pursuant to the terms of this section, act as the legal adviser only.

History.—s. 4, ch. 69-277; s. 33, ch. 77-104; s. 712, ch. 95-147; s. 61, ch. 2004-11.

112.44 Failure to prove charges; payment of attorney's fees or salary.—In the event any officer suspended by the Governor shall not be removed by the Senate, the officer shall be reinstated, and the Senate may provide that the county, district, or state, as the case may be, shall pay reasonable attorney's fees and costs of the reinstated officer

upon his or her exoneration; or the Legislature may at any time after such reinstatement provide for the payment from general revenue funds of reasonable attorney's fees and costs or the salary and emoluments of office from the date of suspension to the date of reinstatement. The appropriation for such fees, costs, and salary and emoluments may be contained in the General Appropriations Act or any other appropriate general act. This part shall constitute sufficient authority for the payment of such attorney's fees and costs as the officer may reasonably have incurred in his or her own defense.

History.—s. 5, ch. 69-277; s. 2, ch. 80-333; s. 713, ch. 95-147.

112.45 Senate's report; results of prosecution.—

(1) The Secretary of the Senate shall, as soon as reasonably possible following the action of the Senate, file with the Department of State a report of the action of the Senate, including an order signed by the President and the Secretary specifying the action taken by the Senate. The action of the Senate shall become effective immediately upon the filing of the order with the Department of State, and the Department of State shall forthwith deliver copies of such order to the Governor, the officer involved, and the governing body of the county, district, or state, as the case may be. Any such order or any certified copy thereof, under the signature of the Secretary of State, may be recorded in the public records of any county in this state.

(2) The date of delivery of the order to the Department of State shall be the effective date of the removal or reinstatement, as the case may be, and, should the official be reinstated, he or she shall be entitled to reimbursement for such pay and emoluments of office from the date of suspension to that date, as though he or she had never been suspended, and the order of the Senate, or a certified copy thereof, shall constitute the authority of the county, district, or state, to make such payment for reimbursement.

History.—s. 6, ch. 69-277; ss. 10, 35, ch. 69-106; s. 714, ch. 95-147.

112.46 Period during which suspension will lie.—Any officer subject to suspension by the Governor pursuant to the State Constitution shall be subject to such suspension from the date provided by law for such officer to take office whether or not the Governor has executed and delivered the commission of office to the said officer. It is the intent of this part to provide that the formal execution of a commission by the Governor and a delivery thereof to the officer is a ministerial duty not necessary either to the performance of the duties of that officer or to the susceptibility to suspension of that officer. However, nothing in this part shall prohibit or preclude any officer claiming title to any office from seeking a judicial determination of his or her right to such office, regardless of the issuance or nonissuance of a commission to such office.

History.—s. 7, ch. 69-277; s. 715, ch. 95-147.

112.47 Hearing before Senate select committee; notice.—The Senate shall afford each suspended official a hearing before a select committee or special magistrate, and shall notify such suspended official of the time and place of the hearing sufficiently in advance thereof to afford such official an opportunity fully and adequately to prepare such defenses as the official may be advised are necessary and proper, and all such defenses may be presented by the official or by the official's attorney. In the furtherance of this provision the Senate shall adopt sufficient procedural rules to afford due process both to the Governor in the presentation of his or her evidence and to the suspended official, but in the absence of such adoption, this section shall afford a full and complete hearing, public in nature, as required by the State Constitution. However, nothing in this part shall prevent either the select committee or the Senate from conducting portions of the hearing in executive session if the Senate rules so provide.

History.—s. 8, ch. 69-277; s. 716, ch. 95-147; s. 62, ch. 2004-11.

112.48 Suspension when Senate not in session.—The Governor may suspend any officer at any time, whether or not the Senate is in session. However, the Senate need not hear or determine the question of the suspension of the officer during any regular session.

History.—s. 9, ch. 69-277.

112.49 Persons exercising powers and duties of county officers subject to suspension by Governor.—In the administration of any city-county merger or city-county charter, or any such form of government which provides for the merging of the powers, duties, and functions of any municipal and county governments, any officer, official, or employee of such merged government who exercises the powers and duties of a county officer, whether he or she shall be elected or appointed, shall be deemed to be a county officer and therefore subject to the power of the Governor under the State Constitution to suspend officers. If the charter or other authority under which any city-county merger is accomplished shall provide means for the suspension or removal of such officers, then the power to suspend shall be concurrent in the city-county government and in the Governor.

History.—s. 2, ch. 71-333; s. 717, ch. 95-147.

112.50 Governor to retain power to suspend public officers.—Whenever any state, county, or municipal officer is made subject to suspension or removal by the terms of any statute or municipal charter, the power of the Governor to suspend officers shall not be affected by such statutory or charter provisions, and the power to suspend shall reside concurrently in the Governor and in the statutory or charter authority.

History.—s. 3, ch. 71-333.

112.501 Municipal board members; suspension; removal.—

(1) For the purposes of this section, the term "municipal board member" is defined as any person who is appointed or confirmed by the governing body of a municipality to be a member of a board, commission, authority, or council which is created or authorized by general law, special act, or municipal charter.

(2) By resolution specifying facts sufficient to advise a municipal board member as to the basis for his or her suspension or removal and after reasonable notice to the municipal board member and an opportunity for the member to be heard, a governing body of the municipality may:

(a) Suspend or remove from office any municipal board member for malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform his or her official duties.

(b) Suspend from office any municipal board member who is arrested for a felony or for a misdemeanor related to the duties of office or who is indicted or informed against for the commission of any federal felony or misdemeanor or state felony or misdemeanor.

(3) In addition to the authority granted under subsection (2), the governing body of a municipality may remove from office any municipal board member who is convicted of a federal felony or misdemeanor or state felony or misdemeanor. For the purposes of this subsection, any person who pleads guilty or nolo contendere or who is found guilty shall be deemed to have been convicted, notwithstanding a suspension of sentence or a withholding of adjudication.

(4) A suspended municipal board member may, at any time before his or her removal, be reinstated by the governing body of the municipality in its discretion.

(5) The suspension of a municipal board member by the governing body of a municipality creates a temporary vacancy in such office during the suspension. Any temporary vacancy in office created by the suspension of a municipal board member under the provisions of this section shall be filled by a temporary appointment to such office for the period of the suspension, not to extend beyond the term of the suspended municipal board member. Such temporary appointment shall be made in the same manner and by the same authority as provided by law for the filling of a permanent vacancy in such office. If no provision for filling a permanent vacancy in such office is provided by law, special act, or municipal charter, the temporary appointment shall be made by the governing body of the municipality.

(6) No municipal board member who has been suspended from office under this section may perform any official act, duty, or function during his or her suspension; receive any pay or allowance during his or her suspension; or be entitled to any of the emoluments or privileges of his or her office during suspension.

(7) If the municipal board member is acquitted or found not guilty or is otherwise cleared of the charges which were the basis of the arrest, indictment, or information by reason of which he or she was suspended under the provisions of this section, the governing body of the municipality shall forthwith revoke the suspension and restore

such municipal board member to office; and the member shall be entitled to and be paid full back pay and other emoluments or allowances to which he or she would have been entitled for the full period of time of the suspension. If, during the suspension, the term of office of the municipal board member expires and a successor is either appointed or confirmed, such back pay, emoluments, or allowances shall only be paid for the duration of the term of office during which the municipal board member was suspended under the provisions of this section, and he or she shall not be reinstated.

(8) This section applies in the absence of a charter provision.

History.—s. 1, ch. 84-245; s. 718, ch. 95-147.

112.51 Municipal officers; suspension; removal from office.—

(1) By executive order stating the grounds for the suspension and filed with the Secretary of State, the Governor may suspend from office any elected or appointed municipal official for malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform official duties.

(2) Whenever any elected or appointed municipal official is arrested for a felony or for a misdemeanor related to the duties of office or is indicted or informed against for the commission of a federal felony or misdemeanor or state felony or misdemeanor, the Governor has the power to suspend such municipal official from office.

(3) The suspension of such official by the Governor creates a temporary vacancy in such office during the suspension. Any temporary vacancy in office created by suspension of an official under the provisions of this section shall be filled by a temporary appointment to such office for the period of the suspension. Such temporary appointment shall be made in the same manner and by the same authority by which a permanent vacancy in such office is filled as provided by law. If no provision for filling a permanent vacancy in such office is provided by law, the temporary appointment shall be made by the Governor.

(4) No municipal official who has been suspended from office under this section may perform any official act, duty, or function during his or her suspension; receive any pay or allowance during his or her suspension; or be entitled to any of the emoluments or privileges of his or her office during suspension.

(5) If the municipal official is convicted of any of the charges contained in the indictment or information by reason of which he or she was suspended under the provisions of this section, the Governor shall remove such municipal official from office. If a person was selected to fill the temporary vacancy pursuant to subsection (3), that person shall serve the remaining balance, if any, of the removed official's term of office. Otherwise, any vacancy created by the removal shall be filled as provided by law. For the purposes of this section, any person who pleads guilty or nolo contendere or who is found guilty shall be deemed to have been convicted, notwithstanding a suspension of sentence or a withholding of adjudication.

(6) If the municipal official is acquitted or found not guilty or is otherwise cleared of the charges which were the basis of the arrest, indictment, or information by reason of which he or she was suspended under the provisions of this section, then the Governor shall forthwith revoke the suspension and restore such municipal official to office; and the official shall be entitled to and be paid full back pay and such other emoluments or allowances to which he or she would have been entitled for the full period of time of the suspension. If, during the suspension, the term of office of the municipal official expires and a successor is either appointed or elected, such back pay, emoluments, or allowances shall only be paid for the duration of the term of office during which the municipal official was suspended under the provisions of this section, and he or she shall not be reinstated.

History.—s. 1, ch. 67-66; s. 1, ch. 69-256; s. 3, ch. 73-129; s. 2, ch. 84-245; s. 16, ch. 87-224; s. 719, ch. 95-147; s. 50, ch. 2007-30.

Note.—Former s. 166.16.

112.511 Members of special district governing bodies; suspension; removal from office.—

(1) A member of the governing body of a special district, as defined in s. 189.012, who exercises the powers and duties of a state or a county officer, is subject to the Governor's power under s. 7(a), Art. IV of the State Constitution to suspend such officers.

(2) A member of the governing body of a special district, as defined in s. 189.012, who exercises powers and duties other than that of a state or county officer, is subject to the suspension and removal procedures under s. 112.51.

History.—s. 4, ch. 2014-22.

112.52 Removal of a public official when a method is not otherwise provided.—

(1) When a method for removal from office is not otherwise provided by the State Constitution or by law, the Governor may by executive order suspend from office an elected or appointed public official, by whatever title known, who is indicted or informed against for commission of any felony, or for any misdemeanor arising directly out of his or her official conduct or duties, and may fill the office by appointment for the period of suspension, not to extend beyond the term.

(2) During the period of the suspension, the public official shall not perform any official act, duty, or function or receive any pay, allowance, emolument, or privilege of office.

(3) If convicted, the public official may be removed from office by executive order of the Governor. For the purpose of this section, any person who pleads guilty or nolo contendere or who is found guilty shall be deemed to have been convicted, notwithstanding the suspension of sentence or the withholding of adjudication.

(4) If the public official is acquitted or found not guilty, or the charges are otherwise dismissed, the Governor shall by executive order revoke the suspension; and the public official shall be entitled to full back pay and such other emoluments or allowances to which he or she would have been entitled had he or she not been suspended.

History.—s. 1, ch. 80-333; s. 720, ch. 95-147.

PART VI
LAW ENFORCEMENT AND CORRECTIONAL OFFICERS

112.531 Definitions.
112.532 Law enforcement officers' and correctional officers' rights.
112.533 Receipt and processing of complaints.
112.534 Failure to comply; official misconduct.
112.535 Construction.

112.531 Definitions.—As used in this part:

(1) "Law enforcement officer" means any person, other than a chief of police, who is employed full time by any municipality or the state or any political subdivision thereof and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, traffic, or highway laws of this state; and includes any person who is appointed by the sheriff as a deputy sheriff pursuant to s. 30.07.

(2) "Correctional officer" means any person, other than a warden, who is appointed or employed full time by the state or any political subdivision thereof whose primary responsibility is the supervision, protection, care, custody, or control of inmates within a correctional institution; and includes correctional probation officers, as defined in s. 943.10(3). However, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel.

History.—s. 1, ch. 74-274; s. 1, ch. 75-41; s. 34, ch. 77-104; s. 1, ch. 82-156; s. 1, ch. 89-223; s. 1, ch. 93-19; s. 3, ch. 2000-161.

112.532 Law enforcement officers' and correctional officers' rights.—All law enforcement officers and correctional officers employed by or appointed to a law enforcement agency or a correctional agency shall have the following rights and privileges:

(1) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL OFFICERS WHILE UNDER INVESTIGATION.—Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal, the interrogation must be conducted under the following conditions:

(a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the law enforcement officer or correctional officer is on duty, unless the seriousness of the investigation is of such a degree that immediate action is required.

(b) The interrogation shall take place either at the office of the command of the investigating officer or at the office of the local precinct, police unit, or correctional unit in which the incident allegedly occurred, as designated by the investigating officer or agency.

(c) The law enforcement officer or correctional officer under investigation shall be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation shall be asked by or through one interrogator during any one investigative interrogation, unless specifically waived by the officer under investigation.

(d) The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

(e) Interrogating sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.

(f) The law enforcement officer or correctional officer under interrogation may not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. A promise or reward may not be made as an inducement to answer any questions.

(g) The formal interrogation of a law enforcement officer or correctional officer, including all recess periods, must be recorded on audio tape, or otherwise preserved in such a manner as to allow a transcript to be prepared, and there shall be no unrecorded questions or statements. Upon the request of the interrogated officer, a copy of any recording of the interrogation session must be made available to the interrogated officer no later than 72 hours, excluding holidays and weekends, following said interrogation.

(h) If the law enforcement officer or correctional officer under interrogation is under arrest, or is likely to be placed under arrest as a result of the interrogation, he or she shall be completely informed of all his or her rights before commencing the interrogation.

(i) At the request of any law enforcement officer or correctional officer under investigation, he or she has the right to be represented by counsel or any other representative of his or her choice, who shall be present at all times during the interrogation whenever the interrogation relates to the officer's continued fitness for law enforcement or correctional service.

(j) Notwithstanding the rights and privileges provided by this part, this part does not limit the right of an agency to discipline or to pursue criminal charges against an officer.

(2) COMPLAINT REVIEW BOARDS.—A complaint review board shall be composed of three members: One member selected by the chief administrator of the agency or unit; one member selected by the aggrieved officer; and a third member to be selected by the other two members. Agencies or units having more than 100 law enforcement officers or correctional officers shall utilize a five-member board, with two members being selected by the administrator, two members being selected by the aggrieved officer, and the fifth member being selected by the other four members. The board members shall be law enforcement officers or correctional officers selected from any state, county, or municipal agency within the county. There shall be a board for law enforcement officers and a board for correctional officers whose members shall be from the same discipline as the aggrieved officer. The provisions of this subsection shall not apply to sheriffs or deputy sheriffs.

(3) CIVIL SUITS BROUGHT BY LAW ENFORCEMENT OFFICERS OR CORRECTIONAL OFFICERS.—Every law enforcement officer or correctional officer shall have the right to bring civil suit against any person, group of persons, or organization or corporation, or the head of such organization or corporation, for damages, either pecuniary or otherwise, suffered during the performance of the officer's official duties, for abridgment of the officer's civil rights arising out of the officer's performance of official duties, or for filing a complaint against the officer which the person

knew was false when it was filed. This section does not establish a separate civil action against the officer's employing law enforcement agency for the investigation and processing of a complaint filed under this part.

(4)(a) NOTICE OF DISCIPLINARY ACTION.—A dismissal, demotion, transfer, reassignment, or other personnel action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against any law enforcement officer or correctional officer unless the law enforcement officer or correctional officer is notified of the action and the reason or reasons for the action before the effective date of the action.

(b) Notwithstanding s. 112.533(2), whenever a law enforcement officer or correctional officer is subject to disciplinary action consisting of suspension with loss of pay, demotion, or dismissal, the officer or the officer's representative shall, upon request, be provided with a complete copy of the investigative file, including the final investigative report and all evidence, and with the opportunity to address the findings in the report with the employing law enforcement agency before imposing disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. The contents of the complaint and investigation shall remain confidential until such time as the employing law enforcement agency makes a final determination whether or not to issue a notice of disciplinary action consisting of suspension with loss of pay, demotion, or dismissal. This paragraph does not provide law enforcement officers with a property interest or expectancy of continued employment, employment, or appointment as a law enforcement officer.

(5) RETALIATION FOR EXERCISING RIGHTS.—No law enforcement officer or correctional officer shall be discharged; disciplined; demoted; denied promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, by reason of his or her exercise of the rights granted by this part.

(6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.—

(a) Except as provided in this subsection, disciplinary action, suspension, demotion, or dismissal may not be undertaken by an agency against a law enforcement officer or correctional officer for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within 180 days after the date the agency receives notice of the allegation by a person authorized by the agency to initiate an investigation of the misconduct. If the agency determines that disciplinary action is appropriate, it shall complete its investigation and give notice in writing to the law enforcement officer or correctional officer of its intent to proceed with disciplinary action, along with a proposal of the specific action sought, including length of suspension, if applicable. Notice to the officer must be provided within 180 days after the date the agency received notice of the alleged misconduct, except as follows:

1. The running of the limitations period may be tolled for a period specified in a written waiver of the limitation by the law enforcement officer or correctional officer.

2. The running of the limitations period is tolled during the time that any criminal investigation or prosecution is pending in connection with the act, omission, or other allegation of misconduct.

3. If the investigation involves an officer who is incapacitated or otherwise unavailable, the running of the limitations period is tolled during the period of incapacitation or unavailability.

4. In a multijurisdictional investigation, the limitations period may be extended for a period of time reasonably necessary to facilitate the coordination of the agencies involved.

5. The running of the limitations period may be tolled for emergencies or natural disasters during the time period wherein the Governor has declared a state of emergency within the jurisdictional boundaries of the concerned agency.

6. The running of the limitations period is tolled during the time that the officer's compliance hearing proceeding is continuing beginning with the filing of the notice of violation and a request for a hearing and ending with the written determination of the compliance review panel or upon the violation being remedied by the agency.

(b) An investigation against a law enforcement officer or correctional officer may be reopened, notwithstanding the limitations period for commencing disciplinary action, demotion, or dismissal, if:

1. Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

2. The evidence could not have reasonably been discovered in the normal course of investigation or the evidence resulted from the predisciplinary response of the officer.

Any disciplinary action resulting from an investigation that is reopened pursuant to this paragraph must be completed within 90 days after the date the investigation is reopened.

History.—s. 2, ch. 74-274; s. 2, ch. 82-156; s. 2, ch. 93-19; s. 721, ch. 95-147; s. 1, ch. 98-249; s. 1, ch. 2000-184; s. 1, ch. 2003-149; s. 3, ch. 2005-100; s. 1, ch. 2007-110; s. 1, ch. 2009-200.

112.533 Receipt and processing of complaints.—

(1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary. When law enforcement or correctional agency personnel assigned the responsibility of investigating the complaint prepare an investigative report or summary, regardless of form, the person preparing the report shall, at the time the report is completed:

1. Verify pursuant to s. 92.525 that the contents of the report are true and accurate based upon the person's personal knowledge, information, and belief.
2. Include the following statement, sworn and subscribed to pursuant to s. 92.525:

"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes."

The requirements of subparagraphs 1. and 2. shall be completed prior to the determination as to whether to proceed with disciplinary action or to file disciplinary charges. This subsection does not preclude the Criminal Justice Standards and Training Commission from exercising its authority under chapter 943.

(b)1. Any political subdivision that initiates or receives a complaint against a law enforcement officer or correctional officer must within 5 business days forward the complaint to the employing agency of the officer who is the subject of the complaint for review or investigation.

2. For purposes of this paragraph, the term "political subdivision" means a separate agency or unit of local government created or established by law or ordinance and the officers thereof and includes, but is not limited to, an authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

(2)(a) A complaint filed against a law enforcement officer or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of the complaint is confidential and exempt from the provisions of s. 119.07(1) until the investigation ceases to be active, or until the agency head or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action or to file charges; or
2. Concluded the investigation with a finding to proceed with disciplinary action or to file charges.

Notwithstanding the foregoing provisions, the officer who is the subject of the complaint, along with legal counsel or any other representative of his or her choice, may review the complaint and all statements regardless of form made by the complainant and witnesses and all existing evidence, including, but not limited to, incident reports, analyses, GPS locator information, and audio or video recordings relating to the investigation, immediately before beginning the investigative interview. All statements, regardless of form, provided by a law enforcement officer or correctional officer during the course of a complaint investigation of that officer shall be made under oath pursuant to s. 92.525. Knowingly false statements given by a law enforcement officer or correctional officer under investigation may subject the law enforcement officer or correctional officer to prosecution for perjury. If a witness to a complaint is incarcerated in a correctional facility and may be under the supervision of, or have contact with, the officer under investigation,

only the names and written statements of the complainant and nonincarcerated witnesses may be reviewed by the officer under investigation immediately prior to the beginning of the investigative interview.

(b) This subsection does not apply to any public record which is exempt from public disclosure pursuant to chapter 119. For the purposes of this subsection, an investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. An investigation shall be presumed to be inactive if no finding is made within 45 days after the complaint is filed.

(c) Notwithstanding other provisions of this section, the complaint and information shall be available to law enforcement agencies, correctional agencies, and state attorneys in the conduct of a lawful criminal investigation.

(3) A law enforcement officer or correctional officer has the right to review his or her official personnel file at any reasonable time under the supervision of the designated records custodian. A law enforcement officer or correctional officer may attach to the file a concise statement in response to any items included in the file identified by the officer as derogatory, and copies of such items must be made available to the officer.

(4) Any person who is a participant in an internal investigation, including the complainant, the subject of the investigation and the subject's legal counsel or a representative of his or her choice, the investigator conducting the investigation, and any witnesses in the investigation, who willfully discloses any information obtained pursuant to the agency's investigation, including, but not limited to, the identity of the officer under investigation, the nature of the questions asked, information revealed, or documents furnished in connection with a confidential internal investigation of an agency, before such complaint, document, action, or proceeding becomes a public record as provided in this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. However, this subsection does not limit a law enforcement or correctional officer's ability to gain access to information under paragraph (2)(a). Additionally, a sheriff, police chief, or other head of a law enforcement agency, or his or her designee, is not precluded by this section from acknowledging the existence of a complaint and the fact that an investigation is underway.

History.—s. 3, ch. 74-274; s. 3, ch. 82-156; s. 1, ch. 82-405; s. 1, ch. 83-136; s. 1, ch. 87-59; s. 2, ch. 89-223; s. 1, ch. 90-32; s. 31, ch. 90-360; s. 3, ch. 93-19; s. 722, ch. 95-147; s. 39, ch. 96-406; s. 2, ch. 98-249; s. 2, ch. 2000-184; s. 2, ch. 2003-149; s. 33, ch. 2004-335; s. 42, ch. 2005-251; s. 2, ch. 2007-110; s. 1, ch. 2007-118; s. 2, ch. 2009-200.

112.534 Failure to comply; official misconduct.—

(1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term "law enforcement officer" or "correctional officer" includes the officer's representative or legal counsel, except in application of paragraph (d).

(a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

(b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his or her designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.

(c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

(d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

(e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

(f) The officer bears the burden of proof to establish that the violation of this part was intentional. The standard of proof for such a determination is by a preponderance of the evidence. The determination of the panel must be made at the conclusion of the hearing, in writing, and filed with the agency head and the officer.

(g) If the alleged violation is sustained as intentional by the compliance review panel, the agency head shall immediately remove the investigator from any further involvement with the investigation of the officer. Additionally, the agency head shall direct an investigation be initiated against the investigator determined to have intentionally violated the requirements provided under this part for purposes of agency disciplinary action. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.

(2)(a) All the provisions of s. 838.022 shall apply to this part.

(b) The provisions of chapter 120 do not apply to this part.

History.—s. 4, ch. 74-274; s. 35, ch. 77-104; s. 1, ch. 78-291; s. 4, ch. 82-156; s. 4, ch. 93-19; s. 3, ch. 2000-184; s. 8, ch. 2003-158; s. 3, ch. 2009-200; s. 5, ch. 2011-4; s. 6, ch. 2016-151.

112.535 Construction.—The provisions of chapter 93-19, Laws of Florida, shall not be construed to restrict or otherwise limit the discretion of the sheriff to take any disciplinary action, without limitation, against a deputy sheriff, including the demotion, reprimand, suspension, or dismissal thereof, nor to limit the right of the sheriff to appoint deputy sheriffs or to withdraw their appointment as provided in chapter 30. Neither shall the provisions of chapter 93-19, Laws of Florida, be construed to grant collective bargaining rights to deputy sheriffs or to provide them with a property interest or continued expectancy in their appointment as a deputy sheriff.

History.—s. 6, ch. 93-19.

PART VII
ACTUARIAL SOUNDNESS OF RETIREMENT SYSTEMS

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112.60 Short title.—This part may be cited as the "Florida Protection of Public Employee Retirement Benefits Act."

History.—s. 1, ch. 78-170.

112.61 Legislative intent.—It is the intent of the Legislature in implementing the provisions of s. 14, Art. X of the State Constitution, relating to governmental retirement systems, that such retirement systems or plans be managed, administered, operated, and funded in such a manner as to maximize the protection of public employee retirement benefits. Inherent in this intent is the recognition that the pension liabilities attributable to the benefits promised public employees be fairly, orderly, and equitably funded by the current, as well as future, taxpayers. Accordingly, except as herein provided, it is the intent of this act to prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers. Actuarial experience may be used to fund additional benefits, provided that the present value of such benefits does not exceed the net actuarial experience accumulated from all sources of gains and losses. This act hereby establishes minimum standards for the operation and funding of public employee retirement systems and plans.

History.—s. 1, ch. 78-170; s. 13, ch. 79-183; s. 1, ch. 83-37; s. 3, ch. 94-259.

112.62 Application.—The provisions of this part are applicable to any and all units, agencies, branches, departments, boards, and institutions of state, county, special district, and municipal governments which participate in, operate, or administer a retirement system or plan for public employees, funded in whole or in part by public funds. The provisions of this part supplement and, to the extent there are conflicts, prevail over the provisions of existing laws and local ordinances relating to such retirement systems or plans.

History.—s. 1, ch. 78-170.

112.625 Definitions.—As used in this act:

(1) "Retirement system or plan" means any employee pension benefit plan supported in whole or in part by public funds, provided such plan is not:

(a) An employee benefit plan described in s. 4(a) of the Employee Retirement Income Security Act of 1974, which is not exempt under s. 4(b)(1) of such act;

(b) A plan which is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees;

(c) A coverage agreement entered into pursuant to s. 218 of the Social Security Act;

(d) An individual retirement account or an individual retirement annuity within the meaning of s. 408, or a retirement bond within the meaning of s. 409, of the Internal Revenue Code of 1954;

(e) A plan described in s. 401(d) of the Internal Revenue Code of 1954; or

(f) An individual account consisting of an annuity contract described in s. 403(b) of the Internal Revenue Code of 1954.

(2) "Plan administrator" means the person so designated by the terms of the instrument or instruments, ordinance, or statute under which the plan is operated. If no plan administrator has been designated, the plan sponsor shall be considered the plan administrator.

(3) "Enrolled actuary" means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(4) "Benefit increase" means a change or amendment in the plan design or benefit structure which results in increased benefits for plan members or beneficiaries.

(5) "Governmental entity" means the state, for the Florida Retirement System, and the county, municipality, special district, or district school board which is the employer of the member of a local retirement system or plan.

(6) "Pension or retirement benefit" means any benefit, including a disability benefit, paid to a member or beneficiary of a retirement system or plan as defined in subsection (1).

(7) "Statement value" means the value of assets in accordance with s. 302(c)(2) of the Employee Retirement Income Security Act of 1974 and as permitted under regulations prescribed by the Secretary of the Treasury as amended by Pub. L. No. 100-203, as such sections are in effect on August 16, 2006. Assets for which a fair market value is not provided shall be excluded from the assets used in the determination of annual funding cost.

(8) "Named fiduciary," "board," or "board of trustees" means the person or persons so designated by the terms of the instrument or instruments, ordinance, or statute under which the plan is operated.

(9) "Plan sponsor" means the local governmental entity that has established or that may establish a local retirement system or plan.

History.—s. 14, ch. 79-183; s. 2, ch. 83-37; s. 1, ch. 2000-264; s. 7, ch. 2004-305; s. 1, ch. 2008-139.

112.63 Actuarial reports and statements of actuarial impact; review.—

(1) Each retirement system or plan subject to the provisions of this act shall have regularly scheduled actuarial reports prepared and certified by an enrolled actuary. The actuarial report shall consist of, but is not limited to, the following:

(a) Adequacy of employer and employee contribution rates in meeting levels of employee benefits provided in the system and changes, if any, needed in such rates to achieve or preserve a level of funding deemed adequate to enable payment through the indefinite future of the benefit amounts prescribed by the system, which shall include a valuation of present assets, based on statement value, and prospective assets and liabilities of the system and the extent of unfunded accrued liabilities, if any.

(b) A plan to amortize any unfunded liability pursuant to s. 112.64 and a description of actions taken to reduce the unfunded liability.

(c) A description and explanation of actuarial assumptions.

(d) A schedule illustrating the amortization of unfunded liabilities, if any.

(e) A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports.

(f) Effective January 1, 2016, the mortality tables used in either of the two most recently published actuarial valuation reports of the Florida Retirement System, including the projection scale for mortality improvement. Appropriate risk and collar adjustments must be made based on plan demographics. The tables must be used for assumptions for preretirement and postretirement mortality.

(g) A statement by the enrolled actuary that the report is complete and accurate and that in his or her opinion the techniques and assumptions used are reasonable and meet the requirements and intent of this act.

The actuarial cost methods utilized for establishing the amount of the annual actuarial normal cost to support the promised benefits shall only be those methods approved in the Employee Retirement Income Security Act of 1974 and as permitted under regulations prescribed by the Secretary of the Treasury.

(2) The frequency of actuarial reports must be at least every 3 years commencing from the last actuarial report of the plan or system or October 1, 1980, if no actuarial report has been issued within the 3-year period prior to October 1, 1979. The results of each actuarial report shall be filed with the plan administrator within 60 days of certification. Thereafter, the results of each actuarial report shall be made available for inspection upon request. Additionally, each retirement system or plan covered by this act which is not administered directly by the Department of Management Services shall furnish a copy of each actuarial report to the Department of Management Services within 60 days after receipt from the actuary. The requirements of this section are supplemental to actuarial valuations necessary to comply with the requirements of s. 218.39.

(3) No unit of local government shall agree to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body, and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change upon the local retirement system, consistent with the actuarial review, and has furnished a copy of such statement to the division. Such statement shall also indicate whether the proposed changes are in compliance with s. 14, Art. X of the State Constitution and with s. 112.64.

(4) Upon receipt, pursuant to subsection (2), of an actuarial report, or, pursuant to subsection (3), of a statement of actuarial impact, the Department of Management Services shall acknowledge such receipt, but shall only review and comment on each retirement system's or plan's actuarial valuations at least on a triennial basis.

(a) If the department finds that the actuarial valuation is not complete, accurate, or based on reasonable assumptions or otherwise materially fails to satisfy the requirements of this part; requires additional material information necessary to complete its review of the actuarial valuation of a system or plan or material information necessary to satisfy the duties of the department pursuant to s. 112.665(1); or does not receive the actuarial report or statement of actuarial impact, the department shall notify the administrator of the affected retirement system or plan and the affected governmental entity and request appropriate adjustment, the additional material information, or the required report or statement. The notification must inform the administrator and the affected governmental entity of the consequences for failing to comply with the requirements of this subsection.

(b) If, after a reasonable period of time, a satisfactory adjustment is not made or the report, statement, or additional material information is not provided, the department may notify the Department of Revenue and the Department of Financial Services of the noncompliance, and the Department of Revenue and the Department of Financial Services shall withhold any funds not pledged for satisfaction of bond debt service which are payable to the affected governmental entity until the adjustment is made or the report, statement, or additional material information is provided to the department. The Department of Management Services shall specify the date such action is to begin and notify the Department of Revenue, the Department of Financial Services, and the affected governmental entity 30 days before the specified date.

(c) Within 21 days after receipt of the notice, the affected governmental entity may petition the Department of Management Services for a hearing under ss. 120.569 and 120.57. The Department of Revenue and the Department of Financial Services may not be parties to the hearing, but may request to intervene if requested by the Department of Management Services or if the Department of Revenue or the Department of Financial Services determines its interests may be adversely affected by the hearing.

1. If the administrative law judge recommends in favor of the department, the department shall perform an actuarial review, prepare the statement of actuarial impact, or collect the requested material information. The cost to the department of performing the actuarial review, preparing the statement, or collecting the requested material information shall be charged to the affected governmental entity whose employees are covered by the retirement system or plan. If payment is not received by the department within 60 days after the affected governmental entity receives the request for payment, the department shall certify to the Department of Revenue and the Department of Financial Services the amount due, and the Department of Revenue and the Department of Financial Services shall pay such amount to the Department of Management Services from funds not pledged for satisfaction of bond debt service which are payable to the affected governmental entity.

2. If the administrative law judge recommends in favor of the affected governmental entity and the department performs an actuarial review, prepares the statement of actuarial impact, or collects the requested material information, the cost to the department shall be paid by the Department of Management Services.

(d) In the case of an affected special district, the Department of Management Services shall also notify the Department of Economic Opportunity. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.067.

1. Failure of a special district to provide a required report or statement, to make appropriate adjustments, or to provide additional material information after the procedures specified in s. 189.067(1) are exhausted shall be deemed final action by the special district.

2. The Department of Management Services may notify the Department of Economic Opportunity of those special districts that failed to come into compliance. Upon receipt of notification, the Department of Economic Opportunity

shall proceed pursuant to s. 189.067(4).

(5) Payments made to the fund as required by this chapter shall be based on the normal and past service costs contained in the most recent actuarial valuation, subject to being state-accepted.

(6) Beginning July 1, 1980, each retirement system or plan of a unit of local government shall maintain, in accurate and accessible form, the following information:

(a) For each active and inactive member of the system, a number or other means of identification; date of birth; sex; date of employment; period of credited service, split, if required, between prior service and current service; and occupational classification.

(b) For each active member, current pay rate, cumulative contributions together with accumulated interest, if credited, age at entry into system, and current rate of contribution.

(c) For each inactive member, average final compensation or equivalent and age at which deferred benefit is to begin.

(d) For each retired member and other beneficiary, a number or other means of identification, date of birth, sex, beginning date of benefit, type of retirement and amount of monthly benefit, and type of survivor benefit.

History.—s. 1, ch. 78-170; s. 15, ch. 79-183; s. 3, ch. 83-37; s. 48, ch. 92-279; s. 55, ch. 92-326; s. 23, ch. 94-249; s. 1418, ch. 95-147; s. 2, ch. 96-324; s. 16, ch. 96-410; s. 21, ch. 99-255; s. 1, ch. 99-392; s. 31, ch. 2001-266; s. 132, ch. 2003-261; s. 8, ch. 2004-305; s. 14, ch. 2005-2; s. 45, ch. 2011-142; s. 3, ch. 2011-144; s. 1, ch. 2011-216; s. 12, ch. 2013-15; s. 1, ch. 2013-100; s. 59, ch. 2014-22; s. 1, ch. 2015-157.

112.64 Administration of funds; amortization of unfunded liability.—

(1) Employee contributions shall be deposited in the retirement system or plan at least monthly. Employer contributions shall be deposited at least quarterly; however, any revenues received from any source by an employer which are specifically collected for the purpose of allocation for deposit into a retirement system or plan shall be so deposited within 30 days of receipt by the employer. All employers and employees participating in the Florida Retirement System and other existing retirement systems which are administered by the Department of Management Services shall continue to make contributions at least monthly.

(2) From and after October 1, 1980, for those plans in existence on October 1, 1980, the total contributions to the retirement system or plan shall be sufficient to meet the normal cost of the retirement system or plan and to amortize the unfunded liability, if any, within 40 years; however, nothing contained in this subsection permits any retirement system or plan to amortize its unfunded liabilities over a period longer than that which remains under its current amortization schedule.

(3) For a retirement system or plan which comes into existence after October 1, 1980, the unfunded liability, if any, shall be amortized within 40 years of the first plan year.

(4) The net increase, if any, in unfunded liability under the plan arising from significant plan amendments adopted, changes in actuarial assumptions, changes in funding methods, or actuarial gains or losses shall be amortized within 30 plan years.

(5)(a) If the amortization schedule for unfunded liability is to be based on a contribution derived in whole or in part from a percentage of the payroll of the system or plan membership, the assumption as to payroll growth shall not exceed the average payroll growth for the 10 years prior to the latest actuarial valuation of the system or plan unless a transfer, merger, or consolidation of government functions or services occurs, in which case the assumptions for payroll growth may be adjusted and may be based on the membership of the retirement plan or system subsequent to such transfer, merger, or consolidation.

(b) An unfunded liability amortization schedule that includes a payroll growth assumption and is in existence on September 30, 1996, or is established thereafter, may be continued using the same payroll growth assumption, or one not exceeding the payroll growth assumption established at the start of the schedule, regardless of the actual 10-year average payroll growth rate, provided that:

1. The assumptions underlying the payroll growth rate are consistent with the actuarial assumptions used to determine unfunded liabilities, including, but not limited to, the inflation assumption; and

2. The payroll growth rate is reasonable and consistent with future expectations of payroll growth.

(c) An unfunded liability amortization schedule that does not include a payroll growth assumption and is in existence on September 30, 1996, or is established thereafter, may be continued or modified to include a payroll growth assumption, provided that such assumption does not exceed the 10-year average payroll growth rate as of the actuarial valuation date such change in the amortization schedule commences. Such schedule may be continued thereafter, subject to the reasonable and consistent requirements in paragraph (b).

(6)(a) Notwithstanding any other provision of this part, the proceeds of a pension liability surtax imposed by a county pursuant to s. 212.055, which is levied for the purpose of funding or amortizing the unfunded liability of a defined benefit retirement plan or system, excluding the Florida Retirement System, shall be actuarially recognized, and the county shall apply the present value of the total projected proceeds of the surtax to reduce the unfunded liability or to amortize it as part of the county's annual required contribution, beginning with the fiscal year immediately following approval of the pension liability surtax. The unfunded liability amortization schedule must be adjusted beginning with the fiscal year immediately following approval of the pension liability surtax and amortized over a period of 30 years.

(b) The payroll of all employees in classifications covered by a closed retirement plan or system that receives funds from the pension liability surtax must be included in determining the unfunded liability amortization schedule for the closed plan, regardless of the plan in which the employees currently participate, and the payroll growth assumption must be adjusted to reflect the payroll of those employees when calculating the amortization of the unfunded liability.

(7) Nothing contained in this section shall result in the allocation of chapter 175 or chapter 185 premium tax funds to any other retirement system or plan or for any other use than the exclusive purpose of providing retirement benefits for firefighters or police officers.

History.—s. 1, ch. 78-170; s. 16, ch. 79-183; s. 2, ch. 84-266; s. 2, ch. 96-368; s. 22, ch. 99-255; s. 1, ch. 2016-146.

112.65 Limitation of benefits.—

(1) ESTABLISHMENT OF PROGRAM.—The normal retirement benefit or pension payable to a retiree who becomes a member of any retirement system or plan and who has not previously participated in such plan, on or after January 1, 1980, may not exceed 100 percent of his or her average final compensation. However, this section does not apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments. For the purposes of this section, benefits accruing in individual member accounts established under the investment plan established in part II of chapter 121 are considered supplemental benefits. As used in this section, the term "average final compensation" means the average of the member's earnings over a period of time which the governmental entity has established by statute, charter, or ordinance.

(2) RESTRICTION.—No member of a retirement system or plan covered by this part who is not now a member of such plan shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under chapter 67, Title 10, United States Code.

History.—s. 1, ch. 78-170; s. 17, ch. 79-183; s. 4, ch. 88-382; s. 723, ch. 95-147; s. 2, ch. 99-392; s. 1, ch. 2000-169; s. 4, ch. 2011-68.

112.656 Fiduciary duties; certain officials included as fiduciaries.—

(1) A fiduciary shall discharge his or her duties with respect to a plan solely in the interest of the participants and beneficiaries for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the plan.

(2) Each retirement system or plan shall have one or more named fiduciaries with authority to control and manage the administration and operation of the retirement system or plan. However, the plan administrator, and any officer, trustee, and custodian, and any counsel, accountant, and actuary of the retirement system or plan who is employed on a full-time basis, shall be included as fiduciaries of such system or plan.

(3) A retirement system or plan may purchase insurance for its named fiduciary to cover liability or losses incurred by reason of act or omission of the fiduciary.

History.—s. 18, ch. 79-183; s. 724, ch. 95-147.

112.658 Office of Program Policy Analysis and Government Accountability to determine compliance of the Florida Retirement System.—

(1) The Office of Program Policy Analysis and Government Accountability shall determine, through the examination of actuarial reviews, financial statements, and the practices and procedures of the Department of Management Services, the compliance of the Florida Retirement System with the provisions of this act.

(2) The Office of Program Policy Analysis and Government Accountability shall employ an independent consulting actuary who is an enrolled actuary as defined in this part to assist in the determination of compliance.

(3) The Office of Program Policy Analysis and Government Accountability shall employ the same actuarial standards to monitor the Department of Management Services as the Department of Management Services uses to monitor local governments.

History.—s. 18, ch. 79-183; s. 4, ch. 83-37; s. 3, ch. 96-368; s. 23, ch. 99-255.

112.66 General provisions.—The following general provisions relating to the operation and administration of any retirement system or plan covered by this part shall be applicable:

(1) The provisions of each retirement system or plan shall be contained in a written summary plan description, to be published on a biennial basis, in a manner calculated to be understood by the average plan participant and sufficiently accurate and comprehensive to apprise participants of their rights and obligations under the plan and which shall include a report of pertinent financial and actuarial information on the solvency and actuarial soundness of the plan. Such summary plan description shall be furnished to a member of the system or plan upon initial employment or participation in such plan and, thereafter, with each new biennial publication by the administrator. The administrator of each plan shall publish the summary plan description not later than 210 days after the end of the plan year in which publication is required. During those years when a complete summary plan description is not published, the administrator of each plan or retirement system shall publish a supplement of changes during the previous year to be furnished to new members of the system upon initial employment or participation in the plan.

(2) The plan description shall contain the following information: the name and type of administration of the plan; the name and address of the person designated as agent for the service of legal process, if such person is not the administrator; the name and address of the administrator; the names, titles, and addresses of any trustee or trustees, if they are persons different from the administrator; a description of the relevant provisions of any applicable collective bargaining agreement; the plan's requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; the circumstances which may result in disqualification, ineligibility, or denial or forfeiture of benefits; the source of financing of the plan and the identity of any organization through which benefits are provided; the date of the end of the plan year and whether the records of the plan are kept on a calendar, policy, or fiscal year basis; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part; citations to the relevant provisions of state or local law and regulations governing the establishment, operation, and administration of the plan; a description of those provisions which specify the conditions under which pension benefits become vested pension benefits; and a report of pertinent financial and actuarial information on the solvency and actuarial soundness of the plan.

(3) Each retirement system or plan shall provide for a plan administrator.

(4) Any provision in a legal agreement, contract, or instrument which purports to relieve a fiduciary of a retirement system or plan from responsibility or liability is void as being against public policy.

(5) A civil action may be brought by a member or beneficiary of a retirement system or plan to recover benefits due to him or her under the terms of his or her retirement system or plan, to enforce the member's or beneficiary's rights, or to clarify his or her rights to future benefits under the terms of the retirement system or plan.

(6) The governmental entity responsible for the administration and operation of a retirement system or plan may sue or be sued as an entity.

(7) There shall be timely adequate written notice given to any member or beneficiary whose claim for benefits under the terms of his or her retirement system or plan has been denied, setting forth the specific reasons for such

denial. Unless otherwise provided by law, the terms of the retirement system or plan shall provide for a full and fair review in those cases when a member or beneficiary has had his or her claim to benefits denied.

(8) The assets and liabilities of a retirement system or plan shall remain under the ultimate control of the governmental unit responsible for the retirement system or plan, unless an irrevocable trust has been or is established for the purpose of managing and controlling the retirement system or plan, in which case the board of trustees shall have ultimate control over the assets and liabilities of the retirement system or plan. Nothing herein shall absolve the governmental unit from being ultimately responsible for the payment of its contribution to a retirement system or plan nor remove from the governmental unit the ultimate authority to adjust benefits consistent with the Florida Statutes and the retirement system or plan; however, nothing contained herein shall be construed to permit the creation of such irrevocable trust except by special act of the Legislature.

(9) The instrument or instruments, ordinance, or statute under which a retirement system or plan operates shall provide that all assets of such retirement system or plan shall be held in trust by the board of trustees or, when an irrevocable trust does not exist, by the governmental entity.

(10) No plan shall discriminate in its benefit formula based on color, national origin, sex, or marital status. Nothing herein shall preclude a plan from actuarially adjusting benefits or offering options based on age, early retirement, or disability.

(11) For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011, when calculating retirement benefits, a defined benefit pension system or plan sponsored by a local government may include up to 300 hours per year of overtime compensation as specified in the plan or collective bargaining agreement, but may not include any payments for accrued unused sick leave or annual leave. For those members whose terms and conditions of employment are collectively bargained, this subsection is effective for the first agreement entered into on or after July 1, 2011. This subsection does not apply to state-administered retirement systems or plans.

(12) An actuarial or cash surplus in any system or plan may not be used for any expenses outside the plan.

(13) A local government sponsor of a retirement system or plan may not reduce contributions required to fund the normal cost. This subsection does not apply to state-administered retirement systems or plans.

(14) The state is not liable for any obligation relating to any current or future shortfall in any local government retirement system or plan.

History.—s. 1, ch. 78-170; s. 20, ch. 79-183; s. 3, ch. 90-274; s. 725, ch. 95-147; s. 2, ch. 2011-216; s. 2, ch. 2013-100.

112.661 Investment policies.—Investment of the assets of any local retirement system or plan must be consistent with a written investment policy adopted by the board. Such policies shall be structured to maximize the financial return to the retirement system or plan consistent with the risks incumbent in each investment and shall be structured to establish and maintain an appropriate diversification of the retirement system or plan's assets.

(1) SCOPE.—The investment policy shall apply to funds under the control of the board.

(2) INVESTMENT OBJECTIVES.—The investment policy shall describe the investment objectives of the board.

(3) PERFORMANCE MEASUREMENT.—The investment policy shall specify performance measures as are appropriate for the nature and size of the assets within the board's custody.

(4) INVESTMENT AND FIDUCIARY STANDARDS.—The investment policy shall describe the level of prudence and ethical standards to be followed by the board in carrying out its investment activities with respect to funds described in this section. The board in performing its investment duties shall comply with the fiduciary standards set forth in the Employee Retirement Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case of conflict with other provisions of law authorizing investments, the investment and fiduciary standards set forth in this section shall prevail.

(5) AUTHORIZED INVESTMENTS.—

(a) The investment policy shall list investments authorized by the board. Investments not listed in the investment policy are prohibited. Unless otherwise authorized by law or ordinance, the investment of the assets of any local retirement system or plan covered by this part shall be subject to the limitations and conditions set forth in s. 215.47(1)-(6), (8), (9), (11) and (17).

(b) If a local retirement system or plan has investments that, on October 1, 2000, either exceed the applicable limit or do not satisfy the applicable investment standard, such excess or investment not in compliance with the policy may be continued until such time as it is economically feasible to dispose of such investment. However, no additional investment may be made in the investment category which exceeds the applicable limit, unless authorized by law or ordinance.

(6) MATURITY AND LIQUIDITY REQUIREMENTS.—The investment policy shall require that the investment portfolio be structured in such manner as to provide sufficient liquidity to pay obligations as they come due. To that end, the investment policy should direct that, to the extent possible, an attempt will be made to match investment maturities with known cash needs and anticipated cash-flow requirements.

(7) PORTFOLIO COMPOSITION.—The investment policy shall establish guidelines for investments and limits on security issues, issuers, and maturities. Such guidelines shall be commensurate with the nature and size of the funds within the custody of the board.

(8) RISK AND DIVERSIFICATION.—The investment policy shall provide for appropriate diversification of the investment portfolio. Investments held should be diversified to the extent practicable to control the risk of loss resulting from overconcentration of assets in a specific maturity, issuer, instrument, dealer, or bank through which financial instruments are bought and sold. Diversification strategies within the established guidelines shall be reviewed and revised periodically, as deemed necessary by the board.

(9) EXPECTED ANNUAL RATE OF RETURN.—The investment policy shall require that, for each actuarial valuation, the board determine the total expected annual rate of return for the current year, for each of the next several years, and for the long term thereafter. This determination must be filed promptly with the Department of Management Services and with the plan's sponsor and the consulting actuary. The department shall use this determination only to notify the board, the plan's sponsor, and consulting actuary of material differences between the total expected annual rate of return and the actuarial assumed rate of return.

(10) THIRD-PARTY CUSTODIAL AGREEMENTS.—The investment policy shall provide appropriate arrangements for the holding of assets of the board. Securities should be held with a third party, and all securities purchased by, and all collateral obtained by, the board should be properly designated as an asset of the board. No withdrawal of securities, in whole or in part, shall be made from safekeeping except by an authorized member of the board or the board's designee. Securities transactions between a broker-dealer and the custodian involving purchase or sale of securities by transfer of money or securities must be made on a "delivery vs. payment" basis, if applicable, to ensure that the custodian will have the security or money, as appropriate, in hand at the conclusion of the transaction.

(11) MASTER REPURCHASE AGREEMENT.—The investment policy shall require all approved institutions and dealers transacting repurchase agreements to execute and perform as stated in the Master Repurchase Agreement. All repurchase agreement transactions shall adhere to the requirements of the Master Repurchase Agreement.

(12) BID REQUIREMENT.—The investment policy shall provide that the board determine the approximate maturity date based on cash-flow needs and market conditions, analyze and select one or more optimal types of investment, and competitively bid the security in question when feasible and appropriate. Except as otherwise required by law, the most economically advantageous bid must be selected.

(13) INTERNAL CONTROLS.—The investment policy shall provide for a system of internal controls and operational procedures. The board shall establish a system of internal controls which shall be in writing and made a part of the board's operational procedures. The policy shall provide for review of such controls by independent certified public accountants as part of any financial audit periodically required of the board's unit of local government. The internal controls should be designed to prevent losses of funds which might arise from fraud, error, misrepresentation by third parties, or imprudent actions by the board or employees of the unit of local government.

(14) CONTINUING EDUCATION.—The investment policy shall provide for the continuing education of the board members in matters relating to investments and the board's responsibilities.

(15) REPORTING.—The investment policy shall provide for appropriate annual or more frequent reporting of investment activities. To that end, the board shall prepare periodic reports for submission to the governing body of the unit of local government which shall include investments in the portfolio by class or type, book value, income earned, and market value as of the report date. Such reports shall be available to the public.

(16) FILING OF INVESTMENT POLICY.—Upon adoption by the board, the investment policy shall be promptly filed with the Department of Management Services and the plan's sponsor and consulting actuary. The effective date of the investment policy, and any amendment thereto, shall be the 31st calendar day following the filing date with the plan sponsor.

(17) VALUATION OF ILLIQUID INVESTMENTS.—The investment policy shall provide for the valuation of illiquid investments for which a generally recognized market is not available or for which there is no consistent or generally accepted pricing mechanism. If those investments are utilized, the investment policy must include the criteria set forth in s. 215.47(6), except that submission to the Investment Advisory Council is not required. The investment policy shall require that, for each actuarial valuation, the board must verify the determination of the fair market value for those investments and ascertain that the determination complies with all applicable state and federal requirements. The investment policy shall require that the board disclose to the Department of Management Services and the plan's sponsor each such investment for which the fair market value is not provided.

History.—s. 2, ch. 2000-264; s. 6, ch. 2009-21.

112.664 Reporting standards for defined benefit retirement plans or systems.—

(1) In addition to the other reporting requirements of this part, within 60 days after receipt of the certified actuarial report submitted after the close of the plan year that ends on or after December 31, 2015, and thereafter in each year required under s. 112.63(2), each defined benefit retirement system or plan, excluding the Florida Retirement System, shall prepare and electronically report the following information to the Department of Management Services in a format prescribed by the department:

(a) Annual financial statements that comply with the requirements of the Governmental Accounting Standards Board's Statement No. 67, titled "Financial Reporting for Pension Plans," and Statement No. 68, titled "Accounting and Financial Reporting for Pensions," using mortality tables used in either of the two most recently published actuarial valuation reports of the Florida Retirement System, including the projection scale for mortality improvement. Appropriate risk and collar adjustments must be made based on plan demographics. The tables must be used for assumptions for preretirement and postretirement mortality.

(b) Annual financial statements similar to those required under paragraph (a), but which use an assumed rate of return on investments and an assumed discount rate that are equal to 200 basis points less than the plan's assumed rate of return.

(c) Information indicating the number of months or years for which the current market value of assets are adequate to sustain the payment of expected retirement benefits as determined in the plan's latest valuation and under the financial statements prepared pursuant to paragraphs (a) and (b).

(d) Information indicating the recommended contributions to the plan based on the plan's latest valuation, and the contributions necessary to fund the plan based on financial statements prepared pursuant to paragraphs (a) and (b), stated as an annual dollar value and a percentage of valuation payroll.

(2) Each defined benefit retirement system or plan, excluding the Florida Retirement System, and its plan sponsor:

(a) Shall provide the information required by this section and the funded ratio of the system or plan as determined in the most recent actuarial valuation as part of the disclosures required under s. 166.241(3) and on any website that contains budget information relating to the plan sponsor or actuarial or performance information related to the system or plan.

(b) That has a publicly available website shall provide on that website:

1. The plan's most recent financial statement and actuarial valuation, including a link to the Division of Retirement Actuarial Summary Fact Sheet for that plan.

2. For the previous 5 years, beginning with 2013, a side-by-side comparison of the plan's assumed rate of return compared to the actual rate of return, as well as the percentages of cash, equity, bond, and alternative investments in the plan portfolio.

3. Any charts and graphs of the data provided in subparagraphs 1. and 2., presented in a standardized, user-friendly, and easily interpretable format as prescribed by the department.

(3) The plan shall be deemed to be in noncompliance if it has not submitted the required information to the Department of Management Services within 60 days after receipt of the certified actuarial report for the plan year for which the information is required to be submitted to the department.

(a) The Department of Management Services may notify the Department of Revenue and the Department of Financial Services of the noncompliance, and the Department of Revenue and the Department of Financial Services shall withhold any funds not pledged for satisfaction of bond debt service and which are payable to the plan sponsor until the information is provided to the department. The department shall specify the date the withholding is to begin and notify the Department of Revenue, the Department of Financial Services, and the plan sponsor 30 days before the specified date.

(b) Within 21 days after receipt of the notice, the plan sponsor may petition the Department of Management Services for a hearing under ss. 120.569 and 120.57. The Department of Revenue and the Department of Financial Services may not be parties to the hearing, but may request to intervene if requested by the department or if the Department of Revenue or the Department of Financial Services determines its interests may be adversely affected by the hearing.

History.—s. 3, ch. 2013-100; s. 2, ch. 2015-157.

112.665 Duties of Department of Management Services.—

(1) The Department of Management Services shall:

(a) Gather, catalog, and maintain complete, computerized data information on all public employee retirement systems or plans in the state based upon a review of audits, reports, and other data pertaining to the systems or plans;

(b) Receive and comment upon all actuarial reviews of retirement systems or plans maintained by units of local government;

(c) 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;

(d) Annually issue, by January 1, a report to the President of the Senate and the Speaker of the House of Representatives, which details division activities, findings, and recommendations concerning all governmental retirement systems. The report may include legislation proposed to carry out such recommendations;

(e) Provide a fact sheet for each participating local government defined benefit pension plan which summarizes the plan's actuarial status. The fact sheet should provide a summary of the plan's most current actuarial data, minimum funding requirements as a percentage of pay, and a 5-year history of funded ratios. The fact sheet must include a brief explanation of each element in order to maximize the transparency of the local government plans. The fact sheet must also contain the information specified in s. 112.664(1). These documents shall be posted on the department's website. Plan sponsors that have websites must provide a link to the department's website;

(f) Annually issue, by January 1, a report to the Special District Accountability Program of the Department of Economic Opportunity which includes the participation in and compliance of special districts with the local government retirement system provisions in s. 112.63 and the state-administered retirement system provisions specified in part I of chapter 121; and

(g) Adopt reasonable rules to administer this part.

(2) The department may subpoena actuarial witnesses, review books and records, hold hearings, and take testimony. A witness shall have the right to be accompanied by counsel.

History.—s. 19, ch. 79-183; s. 7, ch. 84-254; s. 34, ch. 89-169; s. 49, ch. 92-279; s. 55, ch. 92-326; s. 24, ch. 94-249; s. 24, ch. 99-255; s. 14, ch. 2000-169; s. 46, ch. 2011-142; s. 3, ch. 2011-216; s. 4, ch. 2013-100; s. 60, ch. 2014-22.

112.67 Special acts prohibited.—Pursuant to s. 11(a)(21), Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application in conflict with the requirements of this part.

History.—s. 2, ch. 78-170.

PART VIII
FIREFIGHTERS

112.80 Short title.
112.81 Definitions.
112.82 Rights of firefighters.
112.83 Rights of firefighters with respect to civil suits.
112.84 Rights of firefighters nonexclusive.

112.80 Short title.—This part may be cited as the "Firefighters' Bill of Rights."

History.—s. 1, ch. 86-6.

112.81 Definitions.—As used in this part:

(1) "Firefighter" means a person who is certified in compliance with s. 633.408 and who is employed solely within the fire department or public safety department of an employing agency as a full-time firefighter whose primary responsibility is the prevention and extinguishment of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires.

(2) "Employing agency" means any municipality or the state or any political subdivision thereof, including authorities and special districts, which employs firefighters.

(3) "Informal inquiry" means a meeting by supervisory or management personnel with a firefighter about whom an allegation of misconduct has come to the attention of such supervisory or management personnel, the purpose of which meeting is to mediate a complaint or discuss the facts to determine whether a formal investigation should be commenced.

(4) "Formal investigation" means the process of investigation ordered by supervisory personnel, after the supervisory personnel have previously determined that the firefighter shall be reprimanded, suspended, or removed, during which the questioning of a firefighter is conducted for the purpose of gathering evidence of misconduct.

(5) "Administrative proceeding" means any nonjudicial hearing which may result in the recommendation, approval, or order of disciplinary action against, or suspension or discharge of, a firefighter.

(6) "Interrogation" means the questioning of a firefighter by an employing agency in connection with a formal investigation or an administrative proceeding but shall not include arbitration or civil service proceedings. Questioning pursuant to an informal inquiry shall not be deemed to be an interrogation.

History.—s. 1, ch. 86-6; s. 118, ch. 2013-183.

112.82 Rights of firefighters.—Whenever a firefighter is subjected to an interrogation, such interrogation shall be conducted pursuant to the terms of this section.

(1) The interrogation shall take place at the facility where the investigating officer is assigned, or at the facility which has jurisdiction over the place where the incident under investigation allegedly occurred, as designated by the investigating officer.

(2) No firefighter shall be subjected to interrogation without first receiving written notice of sufficient detail of the investigation in order to reasonably apprise the firefighter of the nature of the investigation. The firefighter shall be informed beforehand of the names of all complainants.

(3) All interrogations shall be conducted at a reasonable time of day, preferably when the firefighter is on duty, unless the importance of the interrogation or investigation is of such a nature that immediate action is required.

(4) The firefighter under investigation shall be informed of the name, rank, and unit or command of the officer in charge of the investigation, the interrogators, and all persons present during any interrogation.

(5) Interrogation sessions shall be of reasonable duration and the firefighter shall be permitted reasonable periods for rest and personal necessities.

(6) The firefighter being interrogated shall not be subjected to offensive language or offered any incentive as an inducement to answer any questions.

(7) A complete record of any interrogation shall be made, and if a transcript of such interrogation is made, the firefighter under investigation shall be entitled to a copy without charge. Such record may be electronically recorded.

(8) An employee or officer of an employing agency may represent the agency, and an employee organization may represent any member of a bargaining unit desiring such representation in any proceeding to which this part applies.

If a collective bargaining agreement provides for the presence of a representative of the collective bargaining unit during investigations or interrogations, such representative shall be allowed to be present.

(9) No firefighter shall be discharged, disciplined, demoted, denied promotion or seniority, transferred, reassigned, or otherwise disciplined or discriminated against in regard to his or her employment, or be threatened with any such treatment as retaliation for or by reason solely of his or her exercise of any of the rights granted or protected by this part.

History.—s. 1, ch. 86-6.

112.83 Rights of firefighters with respect to civil suits.—If an agency employing firefighters fails to comply with the requirements of this part, a firefighter employed by such agency who is personally injured by such failure to comply may apply directly to the circuit court of the county wherein such employing agency is headquartered and permanently resides for an injunction to restrain and enjoin such violation of the provisions of this part and to complete the performance of the duties imposed by this part.

History.—s. 1, ch. 86-6.

112.84 Rights of firefighters nonexclusive.—

(1) The rights of firefighters as set forth in this part shall not be construed to diminish the rights and privileges of firefighters that are guaranteed to all citizens by the Constitution and laws of the United States and of this state or limit the granting of broader rights by other law, ordinance, or rule. These rights include the right to bring suit against any individual, group of persons, association, organization, or corporation for damages, either monetary or otherwise, suffered during the performance of the firefighter's official duties or for abridgment of the firefighter's rights, civil or otherwise, arising out of the performance of his or her official duties.

(2) This part is neither designed to abridge nor expand the rights of firefighters to bring civil suits for injuries suffered in the course of their employment as recognized by the courts, nor is it designed to abrogate any common-law or statutory limitation on the rights of recovery.

History.—s. 1, ch. 86-6.

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The Florida Senate

2017 Florida Statutes

Title X PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	**Chapter 119** **PUBLIC RECORDS**

CHAPTER 119
PUBLIC RECORDS

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119.01 General state policy on public records.—

(1) It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.

(2)(a) Automation of public records must not erode the right of access to those records. As each agency increases its use of and dependence on electronic recordkeeping, each agency must provide reasonable public access to records electronically maintained and must ensure that exempt or confidential records are not disclosed except as otherwise permitted by law.

(b) When designing or acquiring an electronic recordkeeping system, an agency must consider whether such system is capable of providing data in some common format such as, but not limited to, the American Standard Code for Information Interchange.

(c) An agency may not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of the agency, including public records that are online or stored in an electronic recordkeeping system used by the agency.

(d) Subject to the restrictions of copyright and trade secret laws and public records exemptions, agency use of proprietary software must not diminish the right of the public to inspect and copy a public record.

(e) Providing access to public records by remote electronic means is an additional method of access that agencies should strive to provide to the extent feasible. If an agency provides access to public records by remote electronic means, such access should be provided in the most cost-effective and efficient manner available to the agency providing the information.

(f) Each agency that maintains a public record in an electronic recordkeeping system shall provide to any person, pursuant to this chapter, a copy of any public record in that system which is not exempted by law from public

disclosure. An agency must provide a copy of the record in the medium requested if the agency maintains the record in that medium, and the agency may charge a fee in accordance with this chapter. For the purpose of satisfying a public records request, the fee to be charged by an agency if it elects to provide a copy of a public record in a medium not routinely used by the agency, or if it elects to compile information not routinely developed or maintained by the agency or that requires a substantial amount of manipulation or programming, must be in accordance with s. 119.07(4).

(3) If public funds are expended by an agency in payment of dues or membership contributions for any person, corporation, foundation, trust, association, group, or other organization, all the financial, business, and membership records of that person, corporation, foundation, trust, association, group, or other organization which pertain to the public agency are public records and subject to the provisions of s. 119.07.

History.—s. 1, ch. 5942, 1909; RGS 424; CGL 490; s. 1, ch. 73-98; s. 2, ch. 75-225; s. 2, ch. 83-286; s. 4, ch. 86-163; ss. 1, 5, ch. 95-296; s. 2, ch. 2004-335; s. 1, ch. 2005-251.

119.011 Definitions.—As used in this chapter, the term:

(1) "Actual cost of duplication" means the cost of the material and supplies used to duplicate the public record, but does not include labor cost or overhead cost associated with such duplication.

(2) "Agency" means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

(3)(a) "Criminal intelligence information" means information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

(b) "Criminal investigative information" means information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

(c) "Criminal intelligence information" and "criminal investigative information" shall not include:

1. The time, date, location, and nature of a reported crime.

2. The name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.071(2)(h).

3. The time, date, and location of the incident and of the arrest.

4. The crime charged.

5. Documents given or required by law or agency rule to be given to the person arrested, except as provided in s. 119.071(2)(h) or (m), and, except that the court in a criminal case may order that certain information required by law or agency rule to be given to the person arrested be maintained in a confidential manner and exempt from the provisions of s. 119.07(1) until released at trial if it is found that the release of such information would:

a. Be defamatory to the good name of a victim or witness or would jeopardize the safety of such victim or witness; and

b. Impair the ability of a state attorney to locate or prosecute a codefendant.

6. Informations and indictments except as provided in s. 905.26.

(d) The word "active" shall have the following meaning:

1. Criminal intelligence information shall be considered "active" as long as it is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities.

2. Criminal investigative information shall be considered "active" as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

In addition, criminal intelligence and criminal investigative information shall be considered "active" while such information is directly related to pending prosecutions or appeals. The word "active" shall not apply to information in cases which are barred from prosecution under the provisions of s. 775.15 or other statute of limitation.

(4) "Criminal justice agency" means:

(a) Any law enforcement agency, court, or prosecutor;

(b) Any other agency charged by law with criminal law enforcement duties;

(c) Any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting such law enforcement agencies in the conduct of active criminal investigation or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties; or

(d) The Department of Corrections.

(5) "Custodian of public records" means the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.

(6) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs.

(7) "Duplicated copies" means new copies produced by duplicating, as defined in s. 283.30.

(8) "Exemption" means a provision of general law which provides that a specified record or meeting, or portion thereof, is not subject to the access requirements of s. 119.07(1), s. 286.011, or s. 24, Art. I of the State Constitution.

(9) "Information technology resources" means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training.

(10) "Paratransit" has the same meaning as provided in s. 427.011.

(11) "Proprietary software" means data processing software that is protected by copyright or trade secret laws.

(12) "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

(13) "Redact" means to conceal from a copy of an original public record, or to conceal from an electronic image that is available for public viewing, that portion of the record containing exempt or confidential information.

(14) "Sensitive," for purposes of defining agency-produced software that is sensitive, means only those portions of data processing software, including the specifications and documentation, which are used to:

(a) Collect, process, store, and retrieve information that is exempt from s. 119.07(1);

(b) Collect, process, store, and retrieve financial management information of the agency, such as payroll and accounting records; or

(c) Control and direct access authorizations and security measures for automated systems.

(15) "Utility" means a person or entity that provides electricity, natural gas, telecommunications, water, chilled water, reuse water, or wastewater.

History.—s. 1, ch. 67-125; s. 2, ch. 73-98; s. 3, ch. 75-225; ss. 1, 2, ch. 79-187; s. 8, ch. 85-53; s. 1, ch. 88-188; s. 5, ch. 93-404; s. 5, ch. 93-405; s. 5, ch. 95-207; s. 6, ch. 95-296; s. 10, ch. 95-398; s. 40, ch. 96-406; s. 2, ch. 97-90; s. 3, ch. 2004-335; s. 43, ch. 2005-251; s. 1, ch. 2008-57; s. 1, ch. 2016-95; s. 1, ch. 2017-11.

119.021 Custodial requirements; maintenance, preservation, and retention of public records.—

(1) Public records shall be maintained and preserved as follows:

(a) All public records should be kept in the buildings in which they are ordinarily used.

(b) Insofar as practicable, a custodian of public records of vital, permanent, or archival records shall keep them in fireproof and waterproof safes, vaults, or rooms fitted with noncombustible materials and in such arrangement as to be easily accessible for convenient use.

(c)1. Record books should be copied or repaired, renovated, or rebound if worn, mutilated, damaged, or difficult to read.

2. Whenever any state, county, or municipal records are in need of repair, restoration, or rebinding, the head of the concerned state agency, department, board, or commission; the board of county commissioners of such county; or the governing body of such municipality may authorize that such records be removed from the building or office in which such records are ordinarily kept for the length of time required to repair, restore, or rebind them.

3. Any public official who causes a record book to be copied shall attest and certify under oath that the copy is an accurate copy of the original book. The copy shall then have the force and effect of the original.

(2)(a) The Division of Library and Information Services of the Department of State shall adopt rules to establish retention schedules and a disposal process for public records.

(b) Each agency shall comply with the rules establishing retention schedules and disposal processes for public records which are adopted by the records and information management program of the division.

(c) Each public official shall systematically dispose of records no longer needed, subject to the consent of the records and information management program of the division in accordance with s. 257.36.

(d) The division may ascertain the condition of public records and shall give advice and assistance to public officials to solve problems related to the preservation, creation, filing, and public accessibility of public records in their custody. Public officials shall assist the division by preparing an inclusive inventory of categories of public records in their custody. The division shall establish a time period for the retention or disposal of each series of records. Upon the completion of the inventory and schedule, the division shall, subject to the availability of necessary space, staff, and other facilities for such purposes, make space available in its records center for the filing of semicurrent records so scheduled and in its archives for noncurrent records of permanent value, and shall render such other assistance as needed, including the microfilming of records so scheduled.

(3) Agency final orders rendered before July 1, 2015, that were indexed or listed pursuant to s. 120.53, and agency final orders rendered on or after July 1, 2015, that must be listed or copies of which must be transmitted to the Division of Administrative Hearings pursuant to s. 120.53, have continuing legal significance; therefore, notwithstanding any other provision of this chapter or any provision of chapter 257, each agency shall permanently maintain records of such orders pursuant to the applicable rules of the Department of State.

(4)(a) Whoever has custody of any public records shall deliver, at the expiration of his or her term of office, to his or her successor or, if there be none, to the records and information management program of the Division of Library and Information Services of the Department of State, all public records kept or received by him or her in the transaction of official business.

(b) Whoever is entitled to custody of public records shall demand them from any person having illegal possession of them, who must forthwith deliver the same to him or her. Any person unlawfully possessing public records must within 10 days deliver such records to the lawful custodian of public records unless just cause exists for failing to deliver such records.

History.—s. 2, ch. 67-125; s. 3, ch. 83-286; s. 753, ch. 95-147; s. 5, ch. 2004-335; s. 1, ch. 2015-155.

119.035 Officers-elect.—

(1) It is the policy of this state that the provisions of this chapter apply to officers-elect upon their election to public office. Such officers-elect shall adopt and implement reasonable measures to ensure compliance with the public records obligations set forth in this chapter.

(2) Public records of an officer-elect shall be maintained in accordance with the policies and procedures of the public office to which the officer has been elected.

(3) If an officer-elect, individually or as part of a transition process, creates or uses an online or electronic communication or recordkeeping system, all public records maintained on such system shall be preserved so as not to impair the ability of the public to inspect or copy such public records.

(4) Upon taking the oath of office, the officer-elect shall, as soon as practicable, deliver to the person or persons responsible for records and information management in such office all public records kept or received in the transaction of official business during the period following election to public office.

(5) As used in this section, the term "officer-elect" means the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.

History.—s. 1, ch. 2012-25.

119.07 Inspection and copying of records; photographing public records; fees; exemptions.—

(1)(a) Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

(b) A custodian of public records or a person having custody of public records may designate another officer or employee of the agency to permit the inspection and copying of public records, but must disclose the identity of the designee to the person requesting to inspect or copy public records.

(c) A custodian of public records and his or her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith. A good faith response includes making reasonable efforts to determine from other officers or employees within the agency whether such a record exists and, if so, the location at which the record can be accessed.

(d) A person who has custody of a public record who asserts that an exemption applies to a part of such record shall redact that portion of the record to which an exemption has been asserted and validly applies, and such person shall produce the remainder of such record for inspection and copying.

(e) If the person who has custody of a public record contends that all or part of the record is exempt from inspection and copying, he or she shall state the basis of the exemption that he or she contends is applicable to the record, including the statutory citation to an exemption created or afforded by statute.

(f) If requested by the person seeking to inspect or copy the record, the custodian of public records shall state in writing and with particularity the reasons for the conclusion that the record is exempt or confidential.

(g) In any civil action in which an exemption to this section is asserted, if the exemption is alleged to exist under or by virtue of s. 119.071(1)(d) or (f), (2)(d), (e), or (f), or (4)(c), the public record or part thereof in question shall be submitted to the court for an inspection in camera. If an exemption is alleged to exist under or by virtue of s. 119.071(2)(c), an inspection in camera is discretionary with the court. If the court finds that the asserted exemption is not applicable, it shall order the public record or part thereof in question to be immediately produced for inspection or copying as requested by the person seeking such access.

(h) Even if an assertion is made by the custodian of public records that a requested record is not a public record subject to public inspection or copying under this subsection, the requested record shall, nevertheless, not be disposed of for a period of 30 days after the date on which a written request to inspect or copy the record was served on or otherwise made to the custodian of public records by the person seeking access to the record. If a civil action is instituted within the 30-day period to enforce the provisions of this section with respect to the requested record, the custodian of public records may not dispose of the record except by order of a court of competent jurisdiction after notice to all affected parties.

(i) The absence of a civil action instituted for the purpose stated in paragraph (g) does not relieve the custodian of public records of the duty to maintain the record as a public record if the record is in fact a public record subject to public inspection and copying under this subsection and does not otherwise excuse or exonerate the custodian of public records from any unauthorized or unlawful disposition of such record.

(2)(a) As an additional means of inspecting or copying public records, a custodian of public records may provide access to public records by remote electronic means, provided exempt or confidential information is not disclosed.

(b) The custodian of public records shall provide safeguards to protect the contents of public records from unauthorized remote electronic access or alteration and to prevent the disclosure or modification of those portions of public records which are exempt or confidential from subsection (1) or s. 24, Art. I of the State Constitution.

(c) Unless otherwise required by law, the custodian of public records may charge a fee for remote electronic access, granted under a contractual arrangement with a user, which fee may include the direct and indirect costs of providing such access. Fees for remote electronic access provided to the general public shall be in accordance with the provisions of this section.

(3)(a) Any person shall have the right of access to public records for the purpose of making photographs of the record while such record is in the possession, custody, and control of the custodian of public records.

(b) This subsection applies to the making of photographs in the conventional sense by use of a camera device to capture images of public records but excludes the duplication of microfilm in the possession of the clerk of the circuit court where a copy of the microfilm may be made available by the clerk.

(c) Photographing public records shall be done under the supervision of the custodian of public records, who may adopt and enforce reasonable rules governing the photographing of such records.

(d) Photographing of public records shall be done in the room where the public records are kept. If, in the judgment of the custodian of public records, this is impossible or impracticable, photographing shall be done in another room or place, as nearly adjacent as possible to the room where the public records are kept, to be determined by the custodian of public records. Where provision of another room or place for photographing is required, the expense of providing the same shall be paid by the person desiring to photograph the public record pursuant to paragraph (4)(e).

(4) The custodian of public records shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law. If a fee is not prescribed by law, the following fees are authorized:

(a)1. Up to 15 cents per one-sided copy for duplicated copies of not more than 14 inches by 8½ inches;

2. No more than an additional 5 cents for each two-sided copy; and

3. For all other copies, the actual cost of duplication of the public record.

(b) The charge for copies of county maps or aerial photographs supplied by county constitutional officers may also include a reasonable charge for the labor and overhead associated with their duplication.

(c) An agency may charge up to $1 per copy for a certified copy of a public record.

(d) If the nature or volume of public records requested to be inspected or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both.

(e)1. Where provision of another room or place is necessary to photograph public records, the expense of providing the same shall be paid by the person desiring to photograph the public records.

2. The custodian of public records may charge the person making the photographs for supervision services at a rate of compensation to be agreed upon by the person desiring to make the photographs and the custodian of public records. If they fail to agree as to the appropriate charge, the charge shall be determined by the custodian of public records.

(5) When ballots are produced under this section for inspection or examination, no persons other than the supervisor of elections or the supervisor's employees shall touch the ballots. If the ballots are being examined before the end of the contest period in s. 102.168, the supervisor of elections shall make a reasonable effort to notify all candidates by telephone or otherwise of the time and place of the inspection or examination. All such candidates, or their representatives, shall be allowed to be present during the inspection or examination.

(6) An exemption contained in this chapter or in any other general or special law shall not limit the access of the Auditor General, the Office of Program Policy Analysis and Government Accountability, or any state, county, municipal, university, board of community college, school district, or special district internal auditor to public records when such person states in writing that such records are needed for a properly authorized audit, examination, or investigation. Such person shall maintain the exempt or confidential status of that public record and shall be subject to the same penalties as the custodian of that record for public disclosure of such record.

(7) An exemption from this section does not imply an exemption from s. 286.011. The exemption from s. 286.011 must be expressly provided.

(8) The provisions of this section are not intended to expand or limit the provisions of Rule 3.220, Florida Rules of Criminal Procedure, regarding the right and extent of discovery by the state or by a defendant in a criminal

prosecution or in collateral postconviction proceedings. This section may not be used by any inmate as the basis for failing to timely litigate any postconviction action.

History.—s. 7, ch. 67-125; s. 4, ch. 75-225; s. 2, ch. 77-60; s. 2, ch. 77-75; s. 2, ch. 77-94; s. 2, ch. 77-156; s. 2, ch. 78-81; ss. 2, 4, 6, ch. 79-187; s. 2, ch. 80-273; s. 1, ch. 81-245; s. 1, ch. 82-95; s. 36, ch. 82-243; s. 6, ch. 83-215; s. 2, ch. 83-269; s. 1, ch. 83-286; s. 5, ch. 84-298; s. 1, ch. 85-18; s. 1, ch. 85-45; s. 1, ch. 85-73; s. 1, ch. 85-86; s. 7, ch. 85-152; s. 1, ch. 85-177; s. 4, ch. 85-301; s. 2, ch. 86-11; s. 1, ch. 86-21; s. 1, ch. 86-109; s. 2, ch. 87-399; s. 2, ch. 88-188; s. 1, ch. 88-384; s. 1, ch. 89-29; s. 7, ch. 89-55; s. 1, ch. 89-80; s. 1, ch. 89-275; s. 2, ch. 89-283; s. 2, ch. 89-350; s. 1, ch. 89-531; s. 1, ch. 90-43; s. 63, ch. 90-136; s. 2, ch. 90-196; s. 4, ch. 90-211; s. 24, ch. 90-306; ss. 22, 26, ch. 90-344; s. 116, ch. 90-360; s. 78, ch. 91-45; s. 11, ch. 91-57; s. 1, ch. 91-71; s. 1, ch. 91-96; s. 1, ch. 91-130; s. 1, ch. 91-149; s. 1, ch. 91-219; s. 1, ch. 91-288; ss. 43, 45, ch. 92-58; s. 90, ch. 92-152; s. 59, ch. 92-289; s. 217, ch. 92-303; s. 1, ch. 93-87; s. 2, ch. 93-232; s. 3, ch. 93-404; s. 4, ch. 93-405; s. 4, ch. 94-73; s. 1, ch. 94-128; s. 3, ch. 94-130; s. 67, ch. 94-164; s. 1, ch. 94-176; s. 1419, ch. 95-147; ss. 1, 3, ch. 95-170; s. 4, ch. 95-207; s. 1, ch. 95-320; ss. 1, 2, 3, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 18, 19, 20, 22, 23, 24, 25, 26, 29, 30, 31, 32, 33, 34, 35, 36, ch. 95-398; s. 1, ch. 95-399; s. 121, ch. 95-418; s. 3, ch. 96-178; s. 1, ch. 96-230; s. 5, ch. 96-268; s. 4, ch. 96-290; s. 41, ch. 96-406; s. 18, ch. 96-410; s. 1, ch. 97-185; s. 1, ch. 98-9; s. 7, ch. 98-137; s. 1, ch. 98-255; s. 1, ch. 98-259; s. 128, ch. 98-403; s. 2, ch. 99-201; s. 27, ch. 2000-164; s. 54, ch. 2000-349; s. 1, ch. 2001-87; s. 1, ch. 2001-108; s. 1, ch. 2001-249; s. 29, ch. 2001-261; s. 33, ch. 2001-266; s. 1, ch. 2001-364; s. 1, ch. 2002-67; ss. 1, 3, ch. 2002-257; s. 2, ch. 2002-391; s. 11, ch. 2003-1; s. 1, ch. 2003-100; ss. 1, 2, ch. 2003-110; s. 1, ch. 2003-137; ss. 1, 2, ch. 2003-157; ss. 1, 2, ch. 2004-9; ss. 1, 2, ch. 2004-32; ss. 1, 2, ch. 2004-62; ss. 1, 3, ch. 2004-95; s. 7, ch. 2004-335; ss. 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, ch. 2005-251; s. 74, ch. 2005-277; s. 1, ch. 2007-39; ss. 2, 4, ch. 2007-251.

119.0701 Contracts; public records; request for contractor records; civil action.—

(1) DEFINITIONS.—For purposes of this section, the term:

(a) "Contractor" means an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency as provided under s. 119.011(2).

(b) "Public agency" means a state, county, district, authority, or municipal officer, or department, division, board, bureau, commission, or other separate unit of government created or established by law.

(2) CONTRACT REQUIREMENTS.—In addition to other contract requirements provided by law, each public agency contract for services entered into or amended on or after July 1, 2016, must include:

(a) The following statement, in substantially the following form, identifying the contact information of the public agency's custodian of public records in at least 14-point boldfaced type:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT _(telephone number, e-mail address, and mailing address)_.

(b) A provision that requires the contractor to comply with public records laws, specifically to:

1. Keep and maintain public records required by the public agency to perform the service.

2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

(3) REQUEST FOR RECORDS; NONCOMPLIANCE.—

(a) A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the contractor of the request, and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

(b) If a contractor does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.

(c) A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under s. 119.10.

(4) CIVIL ACTION.—

(a) If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:

1. The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and

2. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.

(b) A notice complies with subparagraph (a)2. if it is sent to the public agency's custodian of public records and to the contractor at the contractor's address listed on its contract with the public agency or to the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

(c) A contractor who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

History.—s. 1, ch. 2013-154; s. 1, ch. 2016-20.

119.071 General exemptions from inspection or copying of public records.—

(1) AGENCY ADMINISTRATION.—

(a) Examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. A person who has taken such an examination has the right to review his or her own completed examination.

(b)1. For purposes of this paragraph, "competitive solicitation" means the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of procurement.

2. Sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.

3. If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

(c) Any financial statement that an agency requires a prospective bidder to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d)1. A public record that was prepared by an agency attorney (including an attorney employed or retained by the agency or employed or retained by another public officer or agency to protect or represent the interests of the agency

having custody of the record) or prepared at the attorney's express direction, that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the agency, and that was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or that was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the conclusion of the litigation or adversarial administrative proceedings. For purposes of capital collateral litigation as set forth in s. 27.7001, the Attorney General's office is entitled to claim this exemption for those public records prepared for direct appeal as well as for all capital collateral litigation after direct appeal until execution of sentence or imposition of a life sentence.

2. This exemption is not waived by the release of such public record to another public employee or officer of the same agency or any person consulted by the agency attorney. When asserting the right to withhold a public record pursuant to this paragraph, the agency shall identify the potential parties to any such criminal or civil litigation or adversarial administrative proceedings. If a court finds that the document or other record has been improperly withheld under this paragraph, the party seeking access to such document or record shall be awarded reasonable attorney's fees and costs in addition to any other remedy ordered by the court.

(e) Any videotape or video signal that, under an agreement with an agency, is produced, made, or received by, or is in the custody of, a federally licensed radio or television station or its agent is exempt from s. 119.07(1).

(f) Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and agency-produced data processing software that is sensitive are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive does not prohibit an agency head from sharing or exchanging such software with another public agency. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

(2) AGENCY INVESTIGATIONS.—

(a) All criminal intelligence and criminal investigative information received by a criminal justice agency prior to January 25, 1979, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Whenever criminal intelligence information or criminal investigative information held by a non-Florida criminal justice agency is available to a Florida criminal justice agency only on a confidential or similarly restricted basis, the Florida criminal justice agency may obtain and use such information in accordance with the conditions imposed by the providing agency.

(c)1. Active criminal intelligence information and active criminal investigative information are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2.a. A request made by a law enforcement agency to inspect or copy a public record that is in the custody of another agency and the custodian's response to the request, and any information that would identify whether a law enforcement agency has requested or received that public record are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, during the period in which the information constitutes active criminal intelligence information or active criminal investigative information.

b. The law enforcement agency that made the request to inspect or copy a public record shall give notice to the custodial agency when the criminal intelligence information or criminal investigative information is no longer active so that the request made by the law enforcement agency, the custodian's response to the request, and information that would identify whether the law enforcement agency had requested or received that public record are available to the public.

c. This exemption is remedial in nature, and it is the intent of the Legislature that the exemption be applied to requests for information received before, on, or after the effective date of this paragraph.

(d) Any information revealing surveillance techniques or procedures or personnel is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any comprehensive inventory of state and local law enforcement resources compiled pursuant to part I, chapter 23, and any comprehensive policies or plans compiled by a criminal justice agency pertaining to the mobilization, deployment, or tactical operations involved in responding to an emergency, as defined in s. 252.34, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and unavailable for inspection, except by personnel authorized by a state or local law enforcement agency, the office of the Governor, the

Department of Legal Affairs, the Department of Law Enforcement, or the Division of Emergency Management as having an official need for access to the inventory or comprehensive policies or plans.

(e) Any information revealing the substance of a confession of a person arrested is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until such time as the criminal case is finally determined by adjudication, dismissal, or other final disposition.

(f) Any information revealing the identity of a confidential informant or a confidential source is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(g)1. All complaints and other records in the custody of any agency which relate to a complaint of discrimination relating to race, color, religion, sex, national origin, age, handicap, or marital status in connection with hiring practices, position classifications, salary, benefits, discipline, discharge, employee performance, evaluation, or other related activities are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until a finding is made relating to probable cause, the investigation of the complaint becomes inactive, or the complaint or other record is made part of the official record of any hearing or court proceeding.

a. This exemption does not affect any function or activity of the Florida Commission on Human Relations.

b. Any state or federal agency that is authorized to have access to such complaints or records by any provision of law shall be granted such access in the furtherance of such agency's statutory duties.

2. If an alleged victim chooses not to file a complaint and requests that records of the complaint remain confidential, all records relating to an allegation of employment discrimination are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(h)1. The following criminal intelligence information or criminal investigative information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Any information that reveals the identity of the victim of the crime of child abuse as defined by chapter 827 or that reveals the identity of a person under the age of 18 who is the victim of the crime of human trafficking proscribed in s. 787.06(3)(a).

b. Any information that may reveal the identity of a person who is a victim of any sexual offense, including a sexual offense proscribed in s. 787.06(3)(b), (d), (f), or (g), chapter 794, chapter 796, chapter 800, chapter 827, or chapter 847.

c. A photograph, videotape, or image of any part of the body of the victim of a sexual offense prohibited under s. 787.06(3)(b), (d), (f), or (g), chapter 794, chapter 796, chapter 800, s. 810.145, chapter 827, or chapter 847, regardless of whether the photograph, videotape, or image identifies the victim.

2. Criminal investigative information and criminal intelligence information made confidential and exempt under this paragraph may be disclosed by a law enforcement agency:

a. In the furtherance of its official duties and responsibilities.

b. For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that such agency believes to be missing or endangered. The information provided should be limited to that needed to identify or locate the victim and not include the sexual nature of the offense committed against the person.

c. To another governmental agency in the furtherance of its official duties and responsibilities.

3. This exemption applies to such confidential and exempt criminal intelligence information or criminal investigative information held by a law enforcement agency before, on, or after the effective date of the exemption.

4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

(i) Any criminal intelligence information or criminal investigative information that reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(j)1. Any document that reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime, which document is received by any agency that regularly receives information from or concerning the victims of crime, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any information not otherwise held confidential or exempt

from s. 119.07(1) which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, upon written request by the victim, which must include official verification that an applicable crime has occurred. Such information shall cease to be exempt 5 years after the receipt of the written request. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, notwithstanding this section.

2.a. Any information in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145, which reveals that minor's identity, including, but not limited to, the minor's face; the minor's home, school, church, or employment telephone number; the minor's home, school, church, or employment address; the name of the minor's school, church, or place of employment; or the personal assets of the minor; and which identifies that minor as the victim of a crime described in this subparagraph, held by a law enforcement agency, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Any governmental agency that is authorized to have access to such statements by any provision of law shall be granted such access in the furtherance of the agency's statutory duties, notwithstanding the provisions of this section.

b. A public employee or officer who has access to a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct proscribed in chapter 800 or in s. 794.011, s. 827.071, s. 847.012, s. 847.0125, s. 847.013, s. 847.0133, or s. 847.0145 may not willfully and knowingly disclose videotaped information that reveals the minor's identity to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order entered by the court having jurisdiction of the alleged offense. A person who violates this provision commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(k)1. A complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to an investigation by the agency of the complaint of misconduct is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ceases to be active, or until the agency provides written notice to the employee who is the subject of the complaint, either personally or by mail, that the agency has either:

a. Concluded the investigation with a finding not to proceed with disciplinary action or file charges; or

b. Concluded the investigation with a finding to proceed with disciplinary action or file charges.

2. Subparagraph 1. is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

(l)1. As used in this paragraph, the term:

a. "Body camera" means a portable electronic recording device that is worn on a law enforcement officer's body and that records audio and video data in the course of the officer performing his or her official duties and responsibilities.

b. "Law enforcement officer" has the same meaning as provided in s. 943.10.

c. "Personal representative" means a parent, a court-appointed guardian, an attorney, or an agent of, or a person holding a power of attorney for, a person recorded by a body camera. If a person depicted in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney or agent; or the parent or guardian of a surviving minor child of the deceased. An agent must possess written authorization of the recorded person to act on his or her behalf.

2. A body camera recording, or a portion thereof, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the recording:

a. Is taken within the interior of a private residence;

b. Is taken within the interior of a facility that offers health care, mental health care, or social services; or

c. Is taken in a place that a reasonable person would expect to be private.

3. Notwithstanding subparagraph 2., a body camera recording may be disclosed by a law enforcement agency:

a. In furtherance of its official duties and responsibilities; or

b. To another governmental agency in the furtherance of its official duties and responsibilities.

4. A body camera recording, or a portion thereof, shall be disclosed by a law enforcement agency:

a. To a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the person's presence in the recording;

b. To the personal representative of a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the represented person's presence in the recording;

c. To a person not depicted in a body camera recording if the recording depicts a place in which the person lawfully resided, dwelled, or lodged at the time of the recording; however, a law enforcement agency may disclose only those portions that record the interior of such a place.

d. Pursuant to a court order.

(I) In addition to any other grounds the court may consider in determining whether to order that a body camera recording be disclosed, the court shall consider whether:

(A) Disclosure is necessary to advance a compelling interest;

(B) The recording contains information that is otherwise exempt or confidential and exempt under the law;

(C) The person requesting disclosure is seeking to obtain evidence to determine legal issues in a case in which the person is a party;

(D) Disclosure would reveal information regarding a person that is of a highly sensitive personal nature;

(E) Disclosure may harm the reputation or jeopardize the safety of a person depicted in the recording;

(F) Confidentiality is necessary to prevent a serious and imminent threat to the fair, impartial, and orderly administration of justice;

(G) The recording could be redacted to protect privacy interests; and

(H) There is good cause to disclose all or portions of a recording.

(II) In any proceeding regarding the disclosure of a body camera recording, the law enforcement agency that made the recording shall be given reasonable notice of hearings and shall be given an opportunity to participate.

5. A law enforcement agency must retain a body camera recording for at least 90 days.

6. The exemption provided in subparagraph 2. applies retroactively.

7. This exemption does not supersede any other public records exemption that existed before or is created after the effective date of this exemption. Those portions of a recording which are protected from disclosure by another public records exemption shall continue to be exempt or confidential and exempt.

8. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

(m)1. Criminal intelligence information or criminal investigative information that reveals the personal identifying information of a witness to a murder, as described in s. 782.04, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for 2 years after the date on which the murder is observed by the witness. A criminal justice agency may disclose such information:

a. In the furtherance of its official duties and responsibilities.

b. To assist in locating or identifying the witness if the agency believes the witness to be missing or endangered.

c. To another governmental agency for use in the performance of its official duties and responsibilities.

d. To the parties in a pending criminal prosecution as required by law.

2. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

(n) Personal identifying information of the alleged victim in an allegation of sexual harassment is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information may be disclosed to another governmental entity in the furtherance of its official duties and responsibilities. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

(3) SECURITY.—

(a)1. As used in this paragraph, the term "security system plan" includes all:

a. Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems;

b. Threat assessments conducted by any agency or any private entity;

c. Threat response plans;

d. Emergency evacuation plans;

e. Sheltering arrangements; or

f. Manuals for security personnel, emergency equipment, or security training.

2. A security system plan or portion thereof for:

a. Any property owned by or leased to the state or any of its political subdivisions; or

b. Any privately owned or leased property

held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is remedial in nature, and it is the intent of the Legislature that this exemption apply to security system plans held by an agency before, on, or after the effective date of this paragraph.

3. Information made confidential and exempt by this paragraph may be disclosed:

a. To the property owner or leaseholder;

b. In furtherance of the official duties and responsibilities of the agency holding the information;

c. To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or

d. Upon a showing of good cause before a court of competent jurisdiction.

(b)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency before, on, or after the effective date of this act.

3. Information made exempt by this paragraph may be disclosed:

a. To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;

b. To a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or

c. Upon a showing of good cause before a court of competent jurisdiction.

4. The entities or persons receiving such information shall maintain the exempt status of the information.

(c)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development, which records are held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to any such records held by an agency before, on, or after the effective date of this act.

3. Information made exempt by this paragraph may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to the owner or owners of the structure in question or the owner's legal representative; or upon a showing of good cause before a court of competent jurisdiction.

4. This paragraph does not apply to comprehensive plans or site plans, or amendments thereto, which are submitted for approval or which have been approved under local land development regulations, local zoning regulations, or development-of-regional-impact review.

5. As used in this paragraph, the term:

a. "Attractions and recreation facility" means any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility that:

(I) For single-performance facilities:

(A) Provides single-performance facilities; or

(B) Provides more than 10,000 permanent seats for spectators.

(II) For serial-performance facilities:

(A) Provides parking spaces for more than 1,000 motor vehicles; or

(B) Provides more than 4,000 permanent seats for spectators.

b. "Entertainment or resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owners or operators of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity includes an area within a 5-mile radius of the theme park complex.

c. "Industrial complex" means any industrial, manufacturing, processing, distribution, warehousing, or wholesale facility or plant, as well as accessory uses and structures, under common ownership that:

(I) Provides onsite parking for more than 250 motor vehicles;

(II) Encompasses 500,000 square feet or more of gross floor area; or

(III) Occupies a site of 100 acres or more, but excluding wholesale facilities or plants that primarily serve or deal onsite with the general public.

d. "Retail and service development" means any retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite and is operated under one common property ownership, development plan, or management that:

(I) Encompasses more than 400,000 square feet of gross floor area; or

(II) Provides parking spaces for more than 2,500 motor vehicles.

e. "Office development" means any office building or park operated under common ownership, development plan, or management that encompasses 300,000 or more square feet of gross floor area.

f. "Hotel or motel development" means any hotel or motel development that accommodates 350 or more units.

(4) AGENCY PERSONNEL INFORMATION.—

(a)1. The social security numbers of all current and former agency employees which are held by the employing agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. The social security numbers of current and former agency employees may be disclosed by the employing agency:

a. If disclosure of the social security number is expressly required by federal or state law or a court order.

b. To another agency or governmental entity if disclosure of the social security number is necessary for the receiving agency or entity to perform its duties and responsibilities.

c. If the current or former agency employee expressly consents in writing to the disclosure of his or her social security number.

(b)1. Medical information pertaining to a prospective, current, or former officer or employee of an agency which, if disclosed, would identify that officer or employee is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such information may be disclosed if the person to whom the information pertains or the person's legal representative provides written permission or pursuant to court order.

2.a. Personal identifying information of a dependent child of a current or former officer or employee of an agency, which dependent child is insured by an agency group insurance plan, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this exemption, "dependent child" has the same meaning as in s. 409.2554.

b. This exemption is remedial in nature and applies to such personal identifying information held by an agency before, on, or after the effective date of this exemption.

(c) Any information revealing undercover personnel of any criminal justice agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d)1. For purposes of this paragraph, the term "telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn or civilian law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or

former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such defenders or counsel; and the names and locations of schools and day care facilities attended by the children of such defenders or counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone

numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. shall maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

4. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

(5) OTHER PERSONAL INFORMATION.—

(a)1.a. The Legislature acknowledges that the social security number was never intended to be used for business purposes but was intended to be used solely for the administration of the federal Social Security System. The Legislature is further aware that over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes.

b. The Legislature recognizes that the social security number can be used as a tool to perpetuate fraud against an individual and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual.

c. The Legislature intends to monitor the use of social security numbers held by agencies in order to maintain a balanced public policy.

2.a. An agency may not collect an individual's social security number unless the agency has stated in writing the purpose for its collection and unless it is:

(I) Specifically authorized by law to do so; or

(II) Imperative for the performance of that agency's duties and responsibilities as prescribed by law.

b. An agency shall identify in writing the specific federal or state law governing the collection, use, or release of social security numbers for each purpose for which the agency collects the social security number, including any authorized exceptions that apply to such collection, use, or release. Each agency shall ensure that the collection, use, or release of social security numbers complies with the specific applicable federal or state law.

c. Social security numbers collected by an agency may not be used by that agency for any purpose other than the purpose provided in the written statement.

3. An agency collecting an individual's social security number shall provide that individual with a copy of the written statement required in subparagraph 2. The written statement also shall state whether collection of the individual's social security number is authorized or mandatory under federal or state law.

4. Each agency shall review whether its collection of social security numbers is in compliance with subparagraph 2. If the agency determines that collection of a social security number is not in compliance with subparagraph 2., the agency shall immediately discontinue the collection of social security numbers for that purpose.

5. Social security numbers held by an agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to social security numbers held by an agency before, on, or after the effective date of this exemption. This exemption does not supersede any federal law prohibiting the release of social security numbers or any other applicable public records exemption for social security numbers existing prior to May 13, 2002, or created thereafter.

6. Social security numbers held by an agency may be disclosed if any of the following apply:

a. The disclosure of the social security number is expressly required by federal or state law or a court order.

b. The disclosure of the social security number is necessary for the receiving agency or governmental entity to perform its duties and responsibilities.

c. The individual expressly consents in writing to the disclosure of his or her social security number.

d. The disclosure of the social security number is made to comply with the USA Patriot Act of 2001, Pub. L. No. 107-56, or Presidential Executive Order 13224.

e. The disclosure of the social security number is made to a commercial entity for the permissible uses set forth in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq.; or the Financial Services Modernization Act of 1999, 15 U.S.C. ss. 6801 et seq., provided that the authorized commercial entity complies with the requirements of this paragraph.

f. The disclosure of the social security number is for the purpose of the administration of health benefits for an agency employee or his or her dependents.

g. The disclosure of the social security number is for the purpose of the administration of a pension fund administered for the agency employee's retirement fund, deferred compensation plan, or defined contribution plan.

h. The disclosure of the social security number is for the purpose of the administration of the Uniform Commercial Code by the office of the Secretary of State.

7.a. For purposes of this subsection, the term:

(I) "Commercial activity" means the permissible uses set forth in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq.; the Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq.; or the Financial Services Modernization Act of 1999, 15 U.S.C. ss. 6801 et seq., or verification of the accuracy of personal information received by a commercial entity in the normal course of its business, including identification or prevention of fraud or matching, verifying, or retrieving information. It does not include the display or bulk sale of social security numbers to the public or the distribution of such numbers to any customer that is not identifiable by the commercial entity.

(II) "Commercial entity" means any corporation, partnership, limited partnership, proprietorship, sole proprietorship, firm, enterprise, franchise, or association that performs a commercial activity in this state.

b. An agency may not deny a commercial entity engaged in the performance of a commercial activity access to social security numbers, provided the social security numbers will be used only in the performance of a commercial activity and provided the commercial entity makes a written request for the social security numbers. The written request must:

(I) Be verified as provided in s. 92.525;

(II) Be legibly signed by an authorized officer, employee, or agent of the commercial entity;

(III) Contain the commercial entity's name, business mailing and location addresses, and business telephone number; and

(IV) Contain a statement of the specific purposes for which it needs the social security numbers and how the social security numbers will be used in the performance of a commercial activity, including the identification of any specific federal or state law that permits such use.

c. An agency may request any other information reasonably necessary to verify the identity of a commercial entity requesting the social security numbers and the specific purposes for which the numbers will be used.

8.a. Any person who makes a false representation in order to obtain a social security number pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

b. Any public officer who violates this paragraph commits a noncriminal infraction, punishable by a fine not exceeding $500 per violation.

9. Any affected person may petition the circuit court for an order directing compliance with this paragraph.

(b) Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to bank account numbers and debit, charge, and credit card numbers held by an agency before, on, or after the effective date of this exemption.

(c)1. For purposes of this paragraph, the term:

a. "Child" means any person younger than 18 years of age.

b. "Government-sponsored recreation program" means a program for which an agency assumes responsibility for a child participating in that program, including, but not limited to, after-school programs, athletic programs, nature programs, summer camps, or other recreational programs.

2. Information that would identify or locate a child who participates in a government-sponsored recreation program is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. Information that would identify or locate a parent or guardian of a child who participates in a government-sponsored recreation program is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

4. This exemption applies to records held before, on, or after the effective date of this exemption.

(d) All records supplied by a telecommunications company, as defined by s. 364.02, to an agency which contain the name, address, and telephone number of subscribers are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(e) Any information provided to an agency for the purpose of forming ridesharing arrangements, which information reveals the identity of an individual who has provided his or her name for ridesharing, as defined in s. 341.031, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(f) Medical history records and information related to health or property insurance provided to the Department of Economic Opportunity, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency by an applicant for or a participant in a federal, state, or local housing assistance program are confidential and

exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Governmental entities or their agents shall have access to such confidential and exempt records and information for the purpose of auditing federal, state, or local housing programs or housing assistance programs. Such confidential and exempt records and information may be used in any administrative or judicial proceeding, provided such records are kept confidential and exempt unless otherwise ordered by a court.

(g) Biometric identification information held by an agency before, on, or after the effective date of this exemption is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this paragraph, the term "biometric identification information" means:

1. Any record of friction ridge detail;
2. Fingerprints;
3. Palm prints; and
4. Footprints.

(h)1. Personal identifying information of an applicant for or a recipient of paratransit services which is held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. This exemption applies to personal identifying information of an applicant for or a recipient of paratransit services which is held by an agency before, on, or after the effective date of this exemption.

3. Confidential and exempt personal identifying information shall be disclosed:

a. With the express written consent of the applicant or recipient or the legally authorized representative of such applicant or recipient;

b. In a medical emergency, but only to the extent that is necessary to protect the health or life of the applicant or recipient;

c. By court order upon a showing of good cause; or

d. To another agency in the performance of its duties and responsibilities.

(i)1. For purposes of this paragraph, "identification and location information" means the:

a. Home address, telephone number, and photograph of a current or former United States attorney, assistant United States attorney, judge of the United States Courts of Appeal, United States district judge, or United States magistrate;

b. Home address, telephone number, photograph, and place of employment of the spouse or child of such attorney, judge, or magistrate; and

c. Name and location of the school or day care facility attended by the child of such attorney, judge, or magistrate.

2. Identification and location information held by an agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if such attorney, judge, or magistrate submits to an agency that has custody of the identification and location information:

a. A written request to exempt such information from public disclosure; and

b. A written statement that he or she has made reasonable efforts to protect the identification and location information from being accessible through other means available to the public.

(j) Any information furnished by a person to an agency for the purpose of being provided with emergency notification by the agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to information held by an agency before, on, or after the effective date of this exemption.

(k)1. For purposes of this paragraph, the term:

a. "Identification and location information" means the:

(I) Home address, telephone number, and date of birth of a servicemember, and the telephone number associated with a servicemember's personal communication device.

(II) Home address, telephone number, date of birth, and place of employment of the spouse or dependent of a servicemember, and the telephone number associated with such spouse's or dependent's personal communication device.

(III) Name and location of a school attended by the spouse of a servicemember or a school or day care facility attended by a dependent of a servicemember.

b. "Servicemember" means a current or former member of the Armed Forces of the United States, a reserve component of the Armed Forces of the United States, or the National Guard, who served after September 11, 2001.

2. Identification and location information held by an agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if a servicemember submits to an agency that has custody of the identification and location information:

a. A written request to exempt the identification and location information from public disclosure; and

b. A written statement that he or she has made reasonable efforts to protect the identification and location information from being accessible through other means available to the public.

3. This exemption applies to identification and location information held by an agency before, on, or after the effective date of this exemption.

4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 4, ch. 75-225; ss. 2, 3, 4, 6, ch. 79-187; s. 1, ch. 82-95; s. 1, ch. 83-286; s. 5, ch. 84-298; s. 1, ch. 85-18; s. 1, ch. 85-45; s. 1, ch. 85-86; s. 4, ch. 85-301; s. 2, ch. 86-11; s. 1, ch. 86-21; s. 1, ch. 86-109; s. 2, ch. 88-188; s. 1, ch. 88-384; s. 1, ch. 89-80; s. 63, ch. 90-136; s. 4, ch. 90-211; s. 78, ch. 91-45; s. 1, ch. 91-96; s. 1, ch. 91-149; s. 90, ch. 92-152; s. 1, ch. 93-87; s. 2, ch. 93-232; s. 3, ch. 93-404; s. 4, ch. 93-405; s. 1, ch. 94-128; s. 3, ch. 94-130; s. 1, ch. 94-176; s. 1419, ch. 95-147; ss. 1, 3, ch. 95-170; s. 4, ch. 95-207; s. 1, ch. 95-320; ss. 3, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 18, 20, 25, 29, 31, 32, 33, 34, ch. 95-398; s. 3, ch. 96-178; s. 41, ch. 96-406; s. 18, ch. 96-410; s. 1, ch. 98-9; s. 7, ch. 98-137; s. 1, ch. 98-259; s. 2, ch. 99-201; s. 27, ch. 2000-164; s. 1, ch. 2001-249; s. 29, ch. 2001-261; s. 1, ch. 2001-361; s. 1, ch. 2001-364; s. 1, ch. 2002-67; s. 1, ch. 2002-256; s. 1, ch. 2002-257; ss. 2, 3, ch. 2002-391; s. 11, ch. 2003-1; s. 1, ch. 2003-16; s. 1, ch. 2003-100; s. 1, ch. 2003-137; ss. 1, 2, ch. 2003-157; ss. 1, 2, ch. 2004-9; ss. 1, 2, ch. 2004-32; ss. 1, 3, ch. 2004-95; s. 7, ch. 2004-335; s. 4, ch. 2005-213; s. 41, ch. 2005-236; ss. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, ch. 2005-251; s. 14, ch. 2006-1; s. 1, ch. 2006-158; s. 1, ch. 2006-180; s. 1, ch. 2006-181; s. 1, ch. 2006-211; s. 1, ch. 2006-212; s. 13, ch. 2006-224; s. 1, ch. 2006-284; s. 1, ch. 2006-285; s. 1, ch. 2007-93; s. 1, ch. 2007-95; s. 1, ch. 2007-250; s. 1, ch. 2007-251; s. 1, ch. 2008-41; s. 2, ch. 2008-57; s. 1, ch. 2008-145; ss. 1, 3, ch. 2008-234; s. 1, ch. 2009-104; ss. 1, 2, ch. 2009-150; s. 1, ch. 2009-169; ss. 1, 2, ch. 2009-235; s. 1, ch. 2009-237; s. 1, ch. 2010-71; s. 1, ch. 2010-171; s. 1, ch. 2011-83; s. 1, ch. 2011-85; s. 1, ch. 2011-140; s. 48, ch. 2011-142; s. 1, ch. 2011-201; s. 1, ch. 2011-202; s. 1, ch. 2012-149; s. 1, ch. 2012-214; s. 1, ch. 2012-216; s. 1, ch. 2013-69; s. 119, ch. 2013-183; s. 1, ch. 2013-220; s. 1, ch. 2013-243; s. 1, ch. 2013-248; s. 1, ch. 2014-72; s. 1, ch. 2014-94; s. 1, ch. 2014-105; s. 1, ch. 2014-172; s. 1, ch. 2015-37; s. 1, ch. 2015-41; s. 1, ch. 2015-86; s. 1, ch. 2015-146; s. 1, ch. 2016-6; s. 1, ch. 2016-27; s. 1, ch. 2016-49; s. 1, ch. 2016-159; s. 1, ch. 2016-164; s. 1, ch. 2016-178; s. 2, ch. 2017-11; s. 1, ch. 2017-53; s. 1, ch. 2017-66; s. 1, ch. 2017-96; s. 1, ch. 2017-103.

Note.—

A. Additional exemptions from the application of this section appear in the General Index to the Florida Statutes under the heading "Public Records."

B. Portions former ss. 119.07(6), 119.072, and 119.0721; subparagraph (2)(g)1. former s. 119.0711(1).

119.0711 Executive branch agency exemptions from inspection or copying of public records.—When an agency of the executive branch of state government seeks to acquire real property by purchase or through the exercise of the power of eminent domain, all appraisals, other reports relating to value, offers, and counteroffers must be in writing and are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until execution of a valid option contract or a written offer to sell that has been conditionally accepted by the agency, at which time the exemption shall expire. The agency shall not finally accept the offer for a period of 30 days in order to allow public review of the transaction. The agency may give conditional acceptance to any option or offer subject only to final acceptance by the agency after the 30-day review period. If a valid option contract is not executed, or if a written offer to sell is not conditionally accepted by the agency, then the exemption shall expire at the conclusion of the condemnation litigation of the subject property. An agency of the executive branch may exempt title information, including names and addresses of property owners whose property is subject to acquisition by purchase or through the exercise of the power of eminent domain, from s. 119.07(1) and s. 24(a), Art. I of the State Constitution to the same extent as appraisals, other reports relating to value, offers, and counteroffers. For the purpose of this subsection, the term "option contract" means an agreement of an agency of the executive branch of state government to purchase real property subject to final agency approval. This

subsection has no application to other exemptions from s. 119.07(1) which are contained in other provisions of law and shall not be construed to be an express or implied repeal thereof.

History.—s. 1, ch. 85-18; s. 1, ch. 86-21; s. 1, ch. 89-29; ss. 19, 25, ch. 95-398; s. 7, ch. 2004-335; ss. 30, 31, ch. 2005-251; s. 1, ch. 2008-145.

Note.—

A. Additional exemptions from the application of this section appear in the General Index to the Florida Statutes under the heading "Public Records."

B. Former s. 119.07(6)(n), (q).

119.0712 Executive branch agency-specific exemptions from inspection or copying of public records.—

(1) DEPARTMENT OF HEALTH.—All personal identifying information contained in records relating to an individual's personal health or eligibility for health-related services held by the Department of Health is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as otherwise provided in this subsection. Information made confidential and exempt by this subsection shall be disclosed:

(a) With the express written consent of the individual or the individual's legally authorized representative.

(b) In a medical emergency, but only to the extent necessary to protect the health or life of the individual.

(c) By court order upon a showing of good cause.

(d) To a health research entity, if the entity seeks the records or data pursuant to a research protocol approved by the department, maintains the records or data in accordance with the approved protocol, and enters into a purchase and data-use agreement with the department, the fee provisions of which are consistent with s. 119.07(4). The department may deny a request for records or data if the protocol provides for intrusive follow-back contacts, has not been approved by a human studies institutional review board, does not plan for the destruction of confidential records after the research is concluded, is administratively burdensome, or does not have scientific merit. The agreement must restrict the release of any information that would permit the identification of persons, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data. Copies of records or data issued pursuant to this paragraph remain the property of the department.

(2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

(a) For purposes of this subsection, the term "motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the Department of Highway Safety and Motor Vehicles.

(b) Personal information, including highly restricted personal information as defined in 18 U.S.C. s. 2725, contained in a motor vehicle record is confidential pursuant to the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Such information may be released only as authorized by that act; however, information received pursuant to that act may not be used for mass commercial solicitation of clients for litigation against motor vehicle dealers.

(c) E-mail addresses collected by the Department of Highway Safety and Motor Vehicles pursuant to s. 319.40(3), s. 320.95(2), or s. 322.08(9) are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies retroactively. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

(d)1. Emergency contact information contained in a motor vehicle record is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. Without the express consent of the person to whom such emergency contact information applies, the emergency contact information contained in a motor vehicle record may be released only to law enforcement agencies for purposes of contacting those listed in the event of an emergency.

(3) OFFICE OF FINANCIAL REGULATION.—The following information held by the Office of Financial Regulation before, on, or after July 1, 2011, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Any information received from another state or federal regulatory, administrative, or criminal justice agency that is otherwise confidential or exempt pursuant to the laws of that state or pursuant to federal law.

(b) Any information that is received or developed by the office as part of a joint or multiagency examination or investigation with another state or federal regulatory, administrative, or criminal justice agency. The office may obtain and use the information in accordance with the conditions imposed by the joint or multiagency agreement. This exemption does not apply to information obtained or developed by the office that would otherwise be available for public inspection if the office had conducted an independent examination or investigation under Florida law.

History.—s. 1, ch. 97-185; s. 1, ch. 2001-108; ss. 1, 2, ch. 2004-62; s. 7, ch. 2004-335; ss. 32, 33, ch. 2005-251; s. 1, ch. 2006-199; s. 1, ch. 2007-94; ss. 1, 2, ch. 2009-153; s. 1, ch. 2011-88; s. 7, ch. 2013-18; s. 1, ch. 2015-32; s. 9, ch. 2016-10; s. 1, ch. 2016-28.

Note.—

A. Additional exemptions from the application of this section appear in the General Index to the Florida Statutes under the heading "Public Records."

B. Former s. 119.07(6)(aa), (cc).

119.0713 Local government agency exemptions from inspection or copying of public records.—

(1) All complaints and other records in the custody of any unit of local government which relate to a complaint of discrimination relating to race, color, religion, sex, national origin, age, handicap, marital status, sale or rental of housing, the provision of brokerage services, or the financing of housing are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until a finding is made relating to probable cause, the investigation of the complaint becomes inactive, or the complaint or other record is made part of the official record of any hearing or court proceeding. This provision does not affect any function or activity of the Florida Commission on Human Relations. Any state or federal agency that is authorized to access such complaints or records by any provision of law shall be granted such access in the furtherance of such agency's statutory duties. This subsection does not modify or repeal any special or local act.

(2)(a) As used in this subsection, the term "unit of local government" means a county, municipality, special district, local agency, authority, consolidated city-county government, or any other local governmental body or public body corporate or politic authorized or created by general or special law.

(b) The audit report of an internal auditor and the investigative report of the inspector general prepared for or on behalf of a unit of local government becomes a public record when the audit or investigation becomes final. An audit or investigation becomes final when the audit report or investigative report is presented to the unit of local government. Audit workpapers and notes related to such audit and information received, produced, or derived from an investigation are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the audit or investigation is complete and the audit report becomes final or when the investigation is no longer active. An investigation is active if it is continuing with a reasonable, good faith anticipation of resolution and with reasonable dispatch.

(3) Any data, record, or document used directly or solely by a municipally owned utility to prepare and submit a bid relative to the sale, distribution, or use of any service, commodity, or tangible personal property to any customer or prospective customer is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption commences when a municipal utility identifies in writing a specific bid to which it intends to respond. This exemption no longer applies after the contract for sale, distribution, or use of the service, commodity, or tangible personal property is executed, a decision is made not to execute such contract, or the project is no longer under active consideration. The exemption in this subsection includes the bid documents actually furnished in response to the request for bids. However, the exemption for the bid documents submitted no longer applies after the bids are opened by the customer or prospective customer.

(4)(a) Proprietary confidential business information means information, regardless of form or characteristics, which is held by an electric utility that is subject to chapter 119, is intended to be and is treated by the entity that provided the information to the electric utility as private in that the disclosure of the information would cause harm to the entity providing the information or its business operations, and has not been disclosed unless disclosed pursuant

to a statutory provision, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes, but is not limited to:

1. Trade secrets.
2. Internal auditing controls and reports of internal auditors.
3. Security measures, systems, or procedures.
4. Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the electric utility to contract for goods or services on favorable terms.
5. Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

(b) Proprietary confidential business information held by an electric utility that is subject to chapter 119 in conjunction with a due diligence review of an electric project as defined in s. 163.01(3)(d) or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) All proprietary confidential business information described in paragraph (b) shall be retained for 1 year after the due diligence review has been completed and the electric utility has decided whether or not to participate in the project.

(d) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

(5)(a) The following information held by a utility owned or operated by a unit of local government is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Information related to the security of the technology, processes, or practices of a utility owned or operated by a unit of local government that are designed to protect the utility's networks, computers, programs, and data from attack, damage, or unauthorized access, which information, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources.
2. Information related to the security of existing or proposed information technology systems or industrial control technology systems of a utility owned or operated by a unit of local government, which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.

(b) This exemption applies to such information held by a utility owned or operated by a unit of local government before, on, or after the effective date of this exemption.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 86-21; s. 24, ch. 95-398; s. 1, ch. 95-399; s. 1, ch. 96-230; s. 1, ch. 2001-87; ss. 1, 2, ch. 2003-110; s. 7, ch. 2004-335; ss. 34, 35, 36, ch. 2005-251; ss. 3, 5, ch. 2008-57; s. 1, ch. 2011-87; s. 1, ch. 2013-143; s. 1, ch. 2016-47; s. 2, ch. 2016-95.

Note.—

A. Additional exemptions from the application of this section appear in the General Index to the Florida Statutes under the heading "Public Records."

B. Former s. 119.07(6)(p), (y), (z), (hh).

119.0714 Court files; court records; official records.—

(1) COURT FILES.—Nothing in this chapter shall be construed to exempt from s. 119.07(1) a public record that was made a part of a court file and that is not specifically closed by order of court, except:

(a) A public record that was prepared by an agency attorney or prepared at the attorney's express direction as provided in s. 119.071(1)(d).

(b) Data processing software as provided in s. 119.071(1)(f).

(c) Any information revealing surveillance techniques or procedures or personnel as provided in s. 119.071(2)(d).

(d) Any comprehensive inventory of state and local law enforcement resources, and any comprehensive policies or plans compiled by a criminal justice agency, as provided in s. 119.071(2)(d).

(e) Any information revealing the substance of a confession of a person arrested as provided in s. 119.071(2)(e).

(f) Any information revealing the identity of a confidential informant or confidential source as provided in s. 119.071(2)(f).

(g) Any information revealing undercover personnel of any criminal justice agency as provided in s. 119.071(4)(c).

(h) Criminal intelligence information or criminal investigative information that is confidential and exempt as provided in s. 119.071(2)(h) or (m).

(i) Social security numbers as provided in s. 119.071(5)(a).

(j) Bank account numbers and debit, charge, and credit card numbers as provided in s. 119.071(5)(b).

(k)1. A petition, and the contents thereof, for an injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking that is dismissed without a hearing, dismissed at an ex parte hearing due to failure to state a claim or lack of jurisdiction, or dismissed for any reason having to do with the sufficiency of the petition itself without an injunction being issued on or after July 1, 2017, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. A petition, and the contents thereof, for an injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking that is dismissed without a hearing, dismissed at an ex parte hearing due to failure to state a claim or lack of jurisdiction, or dismissed for any reason having to do with the sufficiency of the petition itself without an injunction being issued before July 1, 2017, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution only upon request by an individual named in the petition as a respondent. The request must be in the form of a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, or electronic transmission or in person to the clerk of the court. A fee may not be charged for such request.

(2) COURT RECORDS.—

(a) Until January 1, 2012, if a social security number or a bank account, debit, charge, or credit card number is included in a court file, such number may be included as part of the court record available for public inspection and copying unless redaction is requested by the holder of such number or by the holder's attorney or legal guardian.

(b) A request for redaction must be a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the court does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction.

(c) A fee may not be charged for the redaction of a social security number or a bank account, debit, charge, or credit card number pursuant to such request.

(d) The clerk of the court has no liability for the inadvertent release of social security numbers, or bank account, debit, charge, or credit card numbers, unknown to the clerk of the court in court records filed on or before January 1, 2012.

(e)1. The clerk of the court must keep social security numbers confidential and exempt as provided for in s. 119.071(5)(a), and bank account, debit, charge, and credit card numbers exempt as provided for in s. 119.071(5)(b), without any person having to request redaction.

2. Section 119.071(5)(a)7. and 8. does not apply to the clerks of the court with respect to court records.

(f) A request for maintenance of a public records exemption in s. 119.071(4)(d)2. made pursuant to s. 119.071(4)(d)3. must specify the document type, name, identification number, and page number of the court record that contains the exempt information.

(g) The clerk of the court is not liable for the release of information that is required by the Florida Rules of Judicial Administration to be identified by the filer as confidential if the filer fails to make the required identification of the confidential information to the clerk of the court.

(3) OFFICIAL RECORDS.—A person who prepares or files a record for recording in the official records as provided in chapter 28 may not include in that record a social security number or a bank account, debit, charge, or credit card number unless otherwise expressly required by law.

(a) If a social security number or a bank account, debit, charge, or credit card number is included in an official record, such number may be made available as part of the official records available for public inspection and copying unless redaction is requested by the holder of such number or by the holder's attorney or legal guardian.

1. If such record is in electronic format, on January 1, 2011, and thereafter, the county recorder must use his or her best effort, as provided in paragraph (d), to keep social security numbers confidential and exempt as provided for in s. 119.071(5)(a), and to keep complete bank account, debit, charge, and credit card numbers exempt as provided for in s. 119.071(5)(b), without any person having to request redaction.

2. Section 119.071(5)(a)7. and 8. does not apply to the county recorder with respect to official records.

(b) The holder of a social security number or a bank account, debit, charge, or credit card number, or the holder's attorney or legal guardian, may request that a county recorder redact from an image or copy of an official record placed on a county recorder's publicly available Internet website or on a publicly available Internet website used by a county recorder to display public records, or otherwise made electronically available to the public, his or her social security number or bank account, debit, charge, or credit card number contained in that official record.

1. A request for redaction must be a signed, legibly written request and must be delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The request must specify the identification page number of the record that contains the number to be redacted.

2. The county recorder does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction.

3. A fee may not be charged for redacting a social security number or a bank account, debit, charge, or credit card number.

(c) A county recorder shall immediately and conspicuously post signs throughout his or her offices for public viewing, and shall immediately and conspicuously post on any Internet website or remote electronic site made available by the county recorder and used for the ordering or display of official records or images or copies of official records, a notice stating, in substantially similar form, the following:

1. On or after October 1, 2002, any person preparing or filing a record for recordation in the official records may not include a social security number or a bank account, debit, charge, or credit card number in such document unless required by law.

2. Any person has a right to request a county recorder to remove from an image or copy of an official record placed on a county recorder's publicly available Internet website or on a publicly available Internet website used by a county recorder to display public records, or otherwise made electronically available to the general public, any social security number contained in an official record. Such request must be made in writing and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the county recorder. The request must specify the identification page number that contains the social security number to be redacted. A fee may not be charged for the redaction of a social security number pursuant to such a request.

(d) If the county recorder accepts or stores official records in an electronic format, the county recorder must use his or her best efforts to redact all social security numbers and bank account, debit, charge, or credit card numbers from electronic copies of the official record. The use of an automated program for redaction is deemed to be the best effort in performing the redaction and is deemed in compliance with the requirements of this subsection.

(e) The county recorder is not liable for the inadvertent release of social security numbers, or bank account, debit, charge, or credit card numbers, filed with the county recorder.

(f) A request for maintenance of a public records exemption in s. 119.071(4)(d)2. made pursuant to s. 119.071(4)(d)3. must specify the document type, name, identification number, and page number of the official record that contains the exempt information.

History.—s. 2, ch. 79-187; s. 1, ch. 83-286; s. 5, ch. 84-298; s. 1, ch. 85-86; s. 1, ch. 86-109; s. 2, ch. 88-188; s. 26, ch. 90-344; s. 36, ch. 95-398; s. 7, ch. 2004-335; s. 2, ch. 2005-251; s. 2, ch. 2007-251; s. 5, ch. 2008-234; s. 2, ch. 2009-237; s. 23, ch. 2010-162; s. 4, ch. 2011-83; s. 7, ch. 2013-109; s. 3, ch. 2017-11; s. 1, ch. 2017-14; s. 1, ch. 2017-133.

Note.—Subsection (1) former s. 119.07(6).

119.084 Copyright of data processing software created by governmental agencies; sale price and licensing fee.—

(1) As used in this section, "agency" has the same meaning as in s. 119.011(2), except that the term does not include any private agency, person, partnership, corporation, or business entity.

(2) An agency is authorized to acquire and hold a copyright for data processing software created by the agency and to enforce its rights pertaining to such copyright, provided that the agency complies with the requirements of this subsection.

(a) An agency that has acquired a copyright for data processing software created by the agency may sell or license the copyrighted data processing software to any public agency or private person. The agency may establish a price for the sale and a licensing fee for the use of such data processing software that may be based on market considerations. However, the prices or fees for the sale or licensing of copyrighted data processing software to an individual or entity solely for application to information maintained or generated by the agency that created the copyrighted data processing software shall be determined pursuant to s. 119.07(4).

(b) Proceeds from the sale or licensing of copyrighted data processing software shall be deposited by the agency into a trust fund for the agency's appropriate use for authorized purposes. Counties, municipalities, and other political subdivisions of the state may designate how such sale and licensing proceeds are to be used.

(c) The provisions of this subsection are supplemental to, and shall not supplant or repeal, any other provision of law that authorizes an agency to acquire and hold copyrights.

History.—s. 1, ch. 2001-251; s. 9, ch. 2004-335; s. 1, ch. 2006-286.

119.092 Registration by federal employer's registration number.—Each state agency which registers or licenses corporations, partnerships, or other business entities shall include, by July 1, 1978, within its numbering system, the federal employer's identification number of each corporation, partnership, or other business entity registered or licensed by it. Any state agency may maintain a dual numbering system in which the federal employer's identification number or the state agency's own number is the primary identification number; however, the records of such state agency shall be designed in such a way that the record of any business entity is subject to direct location by the federal employer's identification number. The Department of State shall keep a registry of federal employer's identification numbers of all business entities, registered with the Division of Corporations, which registry of numbers may be used by all state agencies.

History.—s. 1, ch. 77-148.

119.10 Violation of chapter; penalties.—

(1) Any public officer who:

(a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine not exceeding $500.

(b) Knowingly violates the provisions of s. 119.07(1) is subject to suspension and removal or impeachment and, in addition, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who willfully and knowingly violates:

(a) Any of the provisions of this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Section 119.105 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 10, ch. 67-125; s. 74, ch. 71-136; s. 5, ch. 85-301; s. 2, ch. 2001-271; s. 11, ch. 2004-335.

119.105 Protection of victims of crimes or accidents.—Police reports are public records except as otherwise made exempt or confidential. Every person is allowed to examine nonexempt or nonconfidential police reports. A person who comes into possession of exempt or confidential information contained in police reports may not use that information for any commercial solicitation of the victims or relatives of the victims of the reported crimes or accidents and may not knowingly disclose such information to any third party for the purpose of such solicitation during the period of time that information remains exempt or confidential. This section does not prohibit the publication of such information to the general public by any news media legally entitled to possess that information or the use of such information for any other data collection or analysis purposes by those entitled to possess that information.

History.—s. 1, ch. 90-280; s. 2, ch. 2003-411; s. 12, ch. 2004-335.

119.11 Accelerated hearing; immediate compliance.—

(1) Whenever an action is filed to enforce the provisions of this chapter, the court shall set an immediate hearing, giving the case priority over other pending cases.

(2) Whenever a court orders an agency to open its records for inspection in accordance with this chapter, the agency shall comply with such order within 48 hours, unless otherwise provided by the court issuing such order, or unless the appellate court issues a stay order within such 48-hour period.

(3) A stay order shall not be issued unless the court determines that there is a substantial probability that opening the records for inspection will result in significant damage.

(4) Upon service of a complaint, counterclaim, or cross-claim in a civil action brought to enforce the provisions of this chapter, the custodian of the public record that is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record sought to be inspected and examined, notwithstanding the applicability of an exemption or the assertion that the requested record is not a public record subject to inspection and examination under s. 119.07(1), until the court directs otherwise. The person who has custody of such public record may, however, at any time permit inspection of the requested record as provided in s. 119.07(1) and other provisions of law.

History.—s. 5, ch. 75-225; s. 2, ch. 83-214; s. 6, ch. 84-298.

[1]**119.12 Attorney fees.—**

(1) If a civil action is filed against an agency to enforce the provisions of this chapter, the court shall assess and award the reasonable costs of enforcement, including reasonable attorney fees, against the responsible agency if the court determines that:

(a) The agency unlawfully refused to permit a public record to be inspected or copied; and

(b) The complainant provided written notice identifying the public record request to the agency's custodian of public records at least 5 business days before filing the civil action, except as provided under subsection (2). The notice period begins on the day the written notice of the request is received by the custodian of public records, excluding Saturday, Sunday, and legal holidays, and runs until 5 business days have elapsed.

(2) The complainant is not required to provide written notice of the public record request to the agency's custodian of public records as provided in paragraph (1)(b) if the agency does not prominently post the contact information for the agency's custodian of public records in the agency's primary administrative building in which public records are routinely created, sent, received, maintained, and requested and on the agency's website, if the agency has a website.

(3) The court shall determine whether the complainant requested to inspect or copy a public record or participated in the civil action for an improper purpose. If the court determines there was an improper purpose, the court may not assess and award the reasonable costs of enforcement, including reasonable attorney fees, to the complainant, and shall assess and award against the complainant and to the agency the reasonable costs, including reasonable attorney fees, incurred by the agency in responding to the civil action. For purposes of this subsection, the term "improper purpose" means a request to inspect or copy a public record or to participate in the civil action primarily to cause a violation of this chapter or for a frivolous purpose.

(4) This section does not create a private right of action authorizing the award of monetary damages for a person who brings an action to enforce the provisions of this chapter. Payments by the responsible agency may include only the reasonable costs of enforcement, including reasonable attorney fees, directly attributable to a civil action brought to enforce the provisions of this chapter.

History.—s. 5, ch. 75-225; s. 7, ch. 84-298; s. 13, ch. 2004-335; s. 1, ch. 2017-21.

[1]**Note.**—Section 2, ch. 2017-21, provides that "[t]his act applies only to public records requests made on or after the effective date of this act."

119.15 Legislative review of exemptions from public meeting and public records requirements.—

(1) This section may be cited as the "Open Government Sunset Review Act."

(2) This section provides for the review and repeal or reenactment of an exemption from s. 24, Art. I of the State Constitution and s. 119.07(1) or s. 286.011. This act does not apply to an exemption that:

(a) Is required by federal law; or

(b) Applies solely to the Legislature or the State Court System.

(3) In the 5th year after enactment of a new exemption or substantial amendment of an existing exemption, the exemption shall be repealed on October 2nd of the 5th year, unless the Legislature acts to reenact the exemption.

(4)(a) A law that enacts a new exemption or substantially amends an existing exemption must state that the record or meeting is:

1. Exempt from s. 24, Art. I of the State Constitution;

2. Exempt from s. 119.07(1) or s. 286.011; and

3. Repealed at the end of 5 years and that the exemption must be reviewed by the Legislature before the scheduled repeal date.

(b) For purposes of this section, an exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records. An exemption is not substantially amended if the amendment narrows the scope of the exemption.

(c) This section is not intended to repeal an exemption that has been amended following legislative review before the scheduled repeal of the exemption if the exemption is not substantially amended as a result of the review.

(5)(a) By June 1 in the year before the repeal of an exemption under this section, the Office of Legislative Services shall certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.

(b) An exemption that is not identified and certified to the President of the Senate and the Speaker of the House of Representatives is not subject to legislative review and repeal under this section. If the office fails to certify an exemption that it subsequently determines should have been certified, it shall include the exemption in the following year's certification after that determination.

(6)(a) As part of the review process, the Legislature shall consider the following:

1. What specific records or meetings are affected by the exemption?

2. Whom does the exemption uniquely affect, as opposed to the general public?

3. What is the identifiable public purpose or goal of the exemption?

4. Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?

5. Is the record or meeting protected by another exemption?

6. Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

(b) An exemption may be created, revised, or maintained only if it serves an identifiable public purpose, and the exemption may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the following purposes and the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;

2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or

3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

(7) Records made before the date of a repeal of an exemption under this section may not be made public unless otherwise provided by law. In deciding whether the records shall be made public, the Legislature shall consider

whether the damage or loss to persons or entities uniquely affected by the exemption of the type specified in subparagraph (6)(b)2. or subparagraph (6)(b)3. would occur if the records were made public.

(8) Notwithstanding s. 768.28 or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of an exemption under this section. The failure of the Legislature to comply strictly with this section does not invalidate an otherwise valid reenactment.

History.—s. 2, ch. 95-217; s. 25, ch. 98-136; s. 37, ch. 2005-251; s. 15, ch. 2006-1; s. 5, ch. 2012-51.

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The Florida Senate

2017 Florida Statutes

Title XII MUNICIPALITIES	**Chapter 175** **FIREFIGHTER PENSIONS**

CHAPTER 175
FIREFIGHTER PENSIONS

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175.021 Legislative declaration.—

(1) It is hereby declared by the Legislature that firefighters perform state and municipal functions; that it is their duty to extinguish fires, to protect life, and to protect property at their own risk and peril; that it is their duty to prevent conflagration and to continuously instruct school personnel, public officials, and private citizens in the prevention of fires and firesafety; that they protect both life and property from local emergencies as defined in s. 252.34; and that their activities are vital to the public safety. It is further declared that firefighters employed by special fire control districts serve under the same circumstances and perform the same duties as firefighters employed by municipalities and should therefore be entitled to the benefits available under this chapter. Therefore, the Legislature declares that it is a proper and legitimate state purpose to provide a uniform retirement system for the benefit of firefighters and intends, in implementing the provisions of s. 14, Art. X of the State Constitution as they relate to municipal and special district firefighters' pension trust fund systems and plans, that such retirement systems or plans be managed, administered, operated, and funded in such manner as to maximize the protection of the firefighters' pension trust funds. Pursuant to s. 18, Art. VII of the State Constitution, the Legislature hereby determines and declares that this act fulfills an important state interest.

(2) This chapter hereby establishes, for all municipal and special district pension plans existing under this chapter, including chapter plans and local law plans, minimum benefits and minimum standards for the operation and funding of such plans, hereinafter referred to as firefighters' pension trust funds, which must be met as conditions precedent to the plan or plan sponsor's receiving a distribution of insurance premium tax revenues under s. 175.121. Minimum benefits and minimum standards for each plan may not be diminished by local charter, ordinance, or resolution or by special act of the Legislature and may not be reduced or offset by any other local, state, or federal law that includes firefighters in its operation, except as provided under s. 112.65.

History.—s. 1, ch. 63-249; s. 1, ch. 79-380; s. 7, ch. 83-334; s. 1, ch. 86-41; s. 12, ch. 93-193; s. 1, ch. 99-1; s. 65, ch. 99-2; s. 58, ch. 2011-142; s. 1, ch. 2015-39.

175.025 Short title.—This chapter may be cited as the "Marvin B. Clayton Firefighters Pension Trust Fund Act."

History.—s. 1, ch. 2004-21.

175.032 Definitions.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the term:

(1) "Additional premium tax revenues" means revenues received by a municipality or special fire control district pursuant to s. 175.121 which exceed base premium tax revenues.

(2) "Average final compensation" for:

(a) A full-time firefighter means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service before retirement, termination, or death, or the career average as a full-time firefighter since July 1, 1953, whichever is greater. A year is 12 consecutive months or such other consecutive period of time as is used and consistently applied.

(b) A volunteer firefighter means the average salary of the 5 best years of the last 10 best contributing years before change in status to a permanent full-time firefighter or retirement as a volunteer firefighter or the career average of a volunteer firefighter, since July 1, 1953, whichever is greater.

(3) "Base premium tax revenues" means:

(a) For a local law plan in effect on October 1, 2003, the revenues received by a municipality or special fire control district pursuant to s. 175.121 for the 2002 calendar year.

(b) For a local law plan created between October 1, 2003, and March 1, 2015, inclusive, the revenues received by a municipality or special fire control district pursuant to s. 175.121 based upon the tax collections during the second calendar year of participation.

(4) "Chapter plan" means a separate defined benefit pension plan for firefighters which incorporates by reference the provisions of this chapter and has been adopted by the governing body of a municipality or special district. Except as specifically authorized in this chapter, the provisions of a chapter plan may not differ from the plan provisions set

forth in ss. 175.021-175.341 and ss. 175.361-175.401. Actuarial valuations of chapter plans shall be conducted by the division as provided by s. 175.261(1).

(5) "Compensation" or "salary" means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the fixed monthly remuneration paid a firefighter. If remuneration is based on actual services rendered, as in the case of a volunteer firefighter, the term means the total cash remuneration received yearly for such services, prorated on a monthly basis. For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011, the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be included.

(a) Any retirement trust fund or plan that meets the requirements of this chapter does not, solely by virtue of this subsection, reduce or diminish the monthly retirement income otherwise payable to each firefighter covered by the retirement trust fund or plan.

(b) The member's compensation or salary contributed as employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the Internal Revenue Code shall be deemed to be the compensation or salary the member would receive if he or she were not participating in such program and shall be treated as compensation for retirement purposes under this chapter.

(c) For any person who first becomes a member in any plan year beginning on or after January 1, 1996, compensation for that plan year may not include any amounts in excess of the Internal Revenue Code s. 401(a)(17) limitation, as amended by the Omnibus Budget Reconciliation Act of 1993, which limitation of $150,000 shall be adjusted as required by federal law for qualified government plans and further adjusted for changes in the cost of living in the manner provided by Internal Revenue Code s. 401(a)(17)(B). For any person who first became a member before the first plan year beginning on or after January 1, 1996, the limitation on compensation may not be less than the maximum compensation amount that was allowed to be taken into account under the plan in effect on July 1, 1993, which limitation shall be adjusted for changes in the cost of living since 1989 in the manner provided by Internal Revenue Code s. 401(a)(17)(1991).

(6) "Creditable service" or "credited service" means the aggregate number of years of service and fractional parts of years of service of any firefighter, omitting intervening years and fractional parts of years when such firefighter may not have been employed by the municipality or special fire control district, subject to the following conditions:

(a) A firefighter may not receive credit for years or fractional parts of years of service if he or she has withdrawn his or her contributions to the fund for those years or fractional parts of years of service, unless the firefighter repays into the fund the amount he or she has withdrawn, plus interest determined by the board. The member has at least 90 days after his or her reemployment to make repayment.

(b) A firefighter may voluntarily leave his or her contributions in the fund for 5 years after leaving the employ of the fire department, pending the possibility of being rehired by the same department, without losing credit for the time he or she has participated actively as a firefighter. If the firefighter is not reemployed as a firefighter with the same department within 5 years, his or her contributions shall be returned without interest.

(c) Credited service under this chapter shall be provided only for service as a firefighter or for military service and does not include credit for any other type of service. A municipality, by local ordinance, or a special fire control district, by resolution, may provide for the purchase of credit for military service prior to employment as well as for prior service as a firefighter for some other employer as long as a firefighter is not entitled to receive a benefit for such prior service. For purposes of determining credit for prior service as a firefighter, in addition to service as a firefighter in this state, credit may be given for federal, other state, or county service if the prior service is recognized by the Division of State Fire Marshal as provided in chapter 633, or the firefighter provides proof to the board of trustees that his or her service is equivalent to the service required to meet the definition of a firefighter.

(d) In determining the creditable service of any firefighter, credit for up to 5 years of the time spent in the military service of the Armed Forces of the United States shall be added to the years of actual service if:

1. The firefighter is in the active employ of an employer immediately before such service and leaves a position, other than a temporary position, for the purpose of voluntary or involuntary service in the Armed Forces of the United

States.

2. The firefighter is entitled to reemployment under the Uniformed Services Employment and Reemployment Rights Act.

3. The firefighter returns to his or her employment as a firefighter of the municipality or special fire control district within 1 year after the date of release from such active service.

(7) "Deferred Retirement Option Plan" or "DROP" means a local law plan retirement option in which a firefighter may elect to participate. A firefighter may retire for all purposes of the plan and defer receipt of retirement benefits into a DROP account while continuing employment with his or her employer. However, a firefighter who enters the DROP and who is otherwise eligible to participate may not be precluded from participation or continued participation in a supplemental plan in existence on, or created after, March 12, 1999.

(8) "Defined contribution plan" means the component of a local law plan, as provided in s. 175.351(1), to which deposits, if any, are made to provide benefits for firefighters, or for firefighters and police officers if both are included. Such component is an element of a local law plan and exists in conjunction with the defined benefit plan component that meets minimum benefits and minimum standards. The retirement benefits, if any, of the defined contribution plan component shall be provided through individual member accounts in accordance with the applicable provisions of the Internal Revenue Code and related regulations and are limited to the contributions, if any, made into each member's account and the actual accumulated earnings, net of expenses, earned on the member's account.

(9) "Division" means the Division of Retirement of the Department of Management Services.

(10) "Enrolled actuary" means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(11)(a) "Firefighter" means a person employed solely by a constituted fire department of any municipality or special fire control district who is certified as a firefighter as a condition of employment in accordance with s. 633.408 and whose duty it is to extinguish fires, to protect life, or to protect property. The term includes all certified, supervisory, and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters. However, for purposes of this chapter only, the term also includes public safety officers who are responsible for performing both police and fire services, who are certified as police officers or firefighters, and who are certified by their employers to the Chief Financial Officer as participating in this chapter before October 1, 1979. Effective October 1, 1979, public safety officers who have not been certified as participating in this chapter are considered police officers for retirement purposes and are eligible to participate in chapter 185. Any plan may provide that the fire chief has an option to participate in that plan.

(b) "Volunteer firefighter" means any person whose name is carried on the active membership roll of a constituted volunteer fire department or a combination of a paid and volunteer fire department of any municipality or special fire control district and whose duty it is to extinguish fires, to protect life, and to protect property. Compensation for services rendered by a volunteer firefighter does not disqualify him or her as a volunteer. A person may not be disqualified as a volunteer firefighter solely because he or she has other gainful employment. Any person who volunteers assistance at a fire but is not an active member of a department described herein is not a volunteer firefighter within the meaning of this paragraph.

(12) "Firefighters' Pension Trust Fund" means a trust fund, by whatever name known, as provided under s. 175.041, for the purpose of assisting municipalities and special fire control districts in establishing and maintaining a retirement plan for firefighters.

(13) "Local law municipality" means any municipality in which a local law plan exists.

(14) "Local law plan" means a retirement plan that includes both a defined benefit plan component and a defined contribution plan component for firefighters, or for firefighters and police officers if both are included, as described in s. 175.351, established by municipal ordinance, special district resolution, or special act of the Legislature, which enactment sets forth all plan provisions. Local law plan provisions may vary from the provisions of this chapter if minimum benefits and minimum standards are met. However, any such variance must provide a greater benefit for firefighters. Actuarial valuations of local law plans shall be conducted by an enrolled actuary as provided in s. 175.261(2).

(15) "Local law special fire control district" means any special fire control district in which a local law plan exists.

(16) "Minimum benefits" means the benefits specified in ss. 175.021-175.341 and ss. 175.361-175.401.

(17) "Minimum standards" means the standards specified in ss. 175.021-175.401.

(18) "Property insurance" means property insurance as defined in s. 624.604 and covers real and personal property within the corporate limits of a municipality, or within the boundaries of a special fire control district, within the state. The term "multiple peril" means a combination or package policy that includes both property and casualty coverage for a single premium.

(19) "Retiree" or "retired firefighter" means a firefighter who has entered retirement status. For the purposes of a plan that includes a Deferred Retirement Option Plan (DROP), a firefighter who enters the DROP is considered a retiree for all purposes of the plan. However, a firefighter who enters the DROP and who is otherwise eligible to participate may not be precluded from participation or continued participation in a supplemental plan in existence on, or created after, March 12, 1999.

(20) "Retirement" means a firefighter's separation from municipal or fire district employment as a firefighter with immediate eligibility for benefits under the plan. For purposes of a plan that includes a Deferred Retirement Option Plan (DROP), "retirement" means the date a firefighter enters the DROP.

(21) "Special act plan" means a plan subject to the provisions of this chapter which was created by an act of the Legislature and continues to require an act of the Legislature to alter plan benefits.

(22) "Special benefits" means benefits provided in a defined contribution plan for firefighters.

(23) "Special fire control district" means a special district, as defined in s. 189.012, established for the purposes of extinguishing fires, protecting life, and protecting property within the incorporated or unincorporated portions of a county or combination of counties, or within any combination of incorporated and unincorporated portions of a county or combination of counties. The term does not include any dependent or independent special district, as those terms are defined in s. 189.012, the employees of which are members of the Florida Retirement System pursuant to s. 121.051(1) or (2).

(24) "Supplemental plan" means a plan to which deposits are made to provide special benefits for firefighters, or for firefighters and police officers if both are included. Such a plan is an element of a local law plan and exists in conjunction with a defined benefit plan component that meets minimum benefits and minimum standards. Any supplemental plan in existence on March 1, 2015, shall be deemed to be a defined contribution plan in compliance with s. 175.351(6).

(25) "Supplemental plan municipality" means a local law municipality in which any supplemental plan existed as of December 1, 2000.

History.—s. 1, ch. 63-249; s. 2, ch. 79-380; s. 1, ch. 79-388; s. 1, ch. 81-168; s. 2, ch. 86-41; s. 13, ch. 93-193; s. 918, ch. 95-147; s. 13, ch. 95-154; s. 2, ch. 99-1; s. 1, ch. 2000-159; s. 1, ch. 2002-66; s. 160, ch. 2003-261; s. 3, ch. 2009-97; s. 4, ch. 2011-216; s. 126, ch. 2013-183; s. 68, ch. 2014-22; s. 2, ch. 2015-39.

175.041 Firefighters' Pension Trust Fund created; applicability of provisions.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) There shall be established a special fund exclusively for the purpose of this chapter, which in the case of chapter plans shall be known as the "Firefighters' Pension Trust Fund," in each municipality and each special fire control district of this state heretofore or hereafter created which now has or which may hereafter have a constituted fire department or an authorized volunteer fire department, or any combination thereof.

(2) To qualify as a fire department or volunteer fire department or combination thereof under the provisions of this chapter, the department shall own and use apparatus for the fighting of fires that was in compliance with National Fire Protection Association Standards for Automotive Fire Apparatus at the time of purchase.

(3) The provisions of this chapter shall apply only to municipalities organized and established pursuant to the laws of the state and to special fire control districts, and said provisions shall not apply to the unincorporated areas of any county or counties except with respect to special fire control districts that include unincorporated areas, nor shall

the provisions hereof apply to any governmental entity whose firefighters are eligible to participate in the Florida Retirement System.

(a) Special fire control districts that include, or consist exclusively of, unincorporated areas of one or more counties may levy and impose the tax and participate in the retirement programs enabled by this chapter.

(b) With respect to the distribution of premium taxes, a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, is also eligible to participate under this chapter. The consolidated government shall notify the division when it has entered into an interlocal agreement to provide fire services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 175.101. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

(c) Any municipality that has entered into an interlocal agreement to provide fire protection services to any other incorporated municipality, in its entirety, for a period of 12 months or more may be eligible to receive the premium taxes reported for such other municipality. In order to be eligible for such premium taxes, the municipality providing the fire services must notify the division that it has entered into an interlocal agreement with another municipality. The municipality receiving the fire services may enact an ordinance levying the tax as provided in s. 175.101. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality receiving the fire services to the participating municipality providing the fire services as long as the interlocal agreement is in effect.

(4) No municipality shall establish more than one retirement plan for public safety officers which is supported in whole or in part by the distribution of premium tax funds as provided by this chapter or chapter 185, nor shall any municipality establish a retirement plan for public safety officers which receives premium tax funds from both this chapter and chapter 185.

History.—s. 1, ch. 63-249; s. 1, ch. 65-153; ss. 2, 3, ch. 79-380; s. 1, ch. 79-388; s. 14, ch. 93-193; s. 3, ch. 99-1; s. 1, ch. 2002-29; s. 2, ch. 2005-205.

175.051 Actuarial deficits not state obligation.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, actuarial deficits, if any, arising under this chapter shall not be the obligation of the state.

History.—s. 1, ch. 63-249; s. 4, ch. 99-1.

175.061 Board of trustees; members; terms of office; meetings; legal entity; costs; attorney's fees.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) In each municipality and in each special fire control district there is hereby created a board of trustees of the firefighters' pension trust fund, which shall be solely responsible for administering the trust fund. Effective October 1, 1986, and thereafter:

(a) The membership of the board of trustees for a chapter plan consists of five members, two of whom, unless otherwise prohibited by law, must be legal residents of the municipality or special fire control district and must be appointed by the governing body of the municipality or special fire control district, and two of whom must be full-time firefighters as defined in s. 175.032 who are elected by a majority of the active firefighters who are members of such plan. With respect to any chapter plan or local law plan that, on January 1, 1997, allowed retired firefighters to vote in such elections, retirees may continue to vote in such elections. The fifth member shall be chosen by a majority of the previous four members as provided herein, and such person's name shall be submitted to the governing body of the municipality or special fire control district. Upon receipt of the fifth person's name, the governing body of the municipality or special fire control district shall, as a ministerial duty, appoint such person to the board of trustees. The fifth member shall have the same rights as each of the other four members, shall serve as trustee for a period of 2 years, and may succeed himself or herself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the governing body at whose pleasure he or she serves, and may succeed himself or herself as a trustee. Each firefighter member shall serve as trustee for a period of 2 years, unless he or she sooner leaves the

employment of the municipality or special fire control district as a firefighter, whereupon a successor shall be chosen in the same manner as an original appointment. Each firefighter may succeed himself or herself in office. The terms of office of the appointed and elected members may be amended by municipal ordinance, special act of the Legislature, or resolution adopted by the governing body of the special fire control district to extend the terms from 2 years to 4 years. The length of the terms of office shall be the same for all board members.

(b) The membership of boards of trustees for local law plans shall be as follows:

1. If a municipality or special fire control district has a pension plan for firefighters only, the provisions of paragraph (a) apply.

2. If a municipality has a pension plan for firefighters and police officers, the provisions of paragraph (a) apply, except that one member of the board must be a firefighter and one member of the board must be a police officer as defined in s. 185.02, respectively elected by a majority of the active firefighters or police officers who are members of the plan.

3. A board of trustees operating a local law plan on July 1, 1999, which is combined with a plan for general employees shall hold an election of the firefighters, or firefighters and police officers, if included, to determine whether a plan is to be established for firefighters only, or for firefighters and police officers where included. Based on the election results, a new board shall be established as provided in subparagraph 1. or subparagraph 2., as appropriate. The municipality or fire control district shall enact an ordinance or resolution to implement the new board by October 1, 1999. The newly established board shall take whatever action is necessary to determine the amount of assets attributable to firefighters, or firefighters and police officers where included. Such assets include all employer, employee, and state contributions made by or on behalf of firefighters, or firefighters and police officers where included, and any investment income derived from such contributions. All such moneys shall be transferred into the newly established retirement plan, as directed by the board.

With respect to a board of trustees operating a local law plan on June 30, 1986, this paragraph does not permit the reduction of the membership percentage of firefighters, or of firefighters and police officers where a joint or mixed fund exists. However, for the sole purpose of changing municipal representation, a municipality may by ordinance change the municipal representation on the board of trustees operating a local law plan by ordinance, only if such change does not reduce the membership percentage of firefighters, or firefighters and police officers, or the membership percentage of the municipal representation.

(c) Whenever the active firefighter membership of a closed chapter plan or closed local law plan as provided in s. 175.371 falls below 10, an active firefighter member seat may be held by either a retired member or an active firefighter member of the plan who is elected by the active and retired members of the plan. If there are no active or retired firefighters remaining in the plan or capable of serving, the remaining board members may elect an individual to serve in the active firefighter seat. Upon receipt of such person's name, the legislative body of the municipality or special fire control district shall, as a ministerial duty, appoint such person to the board of trustees. This paragraph applies only to those plans that are closed to new members under s. 175.371(2), and does not apply to any other municipality or fire control district having a chapter or local law plan.

(2) The trustees shall by a majority vote elect from their number a chair and a secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by Florida law.

(3) The board of trustees shall meet at least quarterly each year.

(4) Each board of trustees shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

(5) In any judicial proceeding or administrative proceeding under chapter 120 brought under or pursuant to the provisions of this chapter, the prevailing party shall be entitled to recover the costs thereof, together with reasonable attorney's fees.

(6) The provisions of this section may not be altered by a participating municipality or special fire control district operating a chapter plan or local law plan under this chapter.

(7) The board of trustees may, upon written request of the retiree of the plan, or by a dependent, if authorized by the retiree or the retiree's beneficiary, authorize the plan administrator to withhold from the monthly retirement payment funds that are necessary to pay for the benefits being received through the governmental entity from which the employee retired, to pay the certified bargaining agent of the governmental entity, and to make any payments for child support or alimony. Upon the written request of the retiree of the plan, the board may also authorize the plan administrator to withhold from the retirement payment those funds necessary to pay for premiums for accident, health, and long-term care insurance for the retiree and the retiree's spouse and dependents. A retirement plan does not incur liability for participation in this permissive program if its actions are taken in good faith.

(8)(a) The board of trustees shall:

1. Provide a detailed accounting report of its expenses for each fiscal year to the plan sponsor and the Department of Management Services and make the report available to each member of the plan and post the report on the board's website, if the board has a website. The report must include all administrative expenses that, for purposes of this subsection, are expenses relating to any legal counsel, actuary, plan administrator, and all other consultants, and all travel and other expenses paid to or on behalf of the members of the board of trustees or anyone else on behalf of the plan.

2. Operate under an administrative expense budget for each fiscal year, provide a copy of the budget to the plan sponsor, and make available a copy of the budget to plan members before the beginning of the fiscal year. If the board of trustees amends the administrative expense budget, the board must provide a copy of the amended budget to the plan sponsor and make available a copy of the amended budget to plan members.

(b) Notwithstanding s. 175.351(2) and (3), a local law plan created by special act before May 27, 1939, must comply with the provisions of this subsection.

History.—s. 1, ch. 63-249; s. 2, ch. 81-168; s. 3, ch. 86-41; s. 15, ch. 93-193; s. 919, ch. 95-147; s. 5, ch. 99-1; s. 3, ch. 2002-66; s. 7, ch. 2004-21; s. 4, ch. 2009-97; s. 5, ch. 2011-216; s. 3, ch. 2015-39.

175.071 General powers and duties of board of trustees.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) The board of trustees, subject to the fiduciary standards in ss. 112.656, 112.661, and 518.11 and the Code of Ethics in ss. 112.311-112.3187, may:

(a) Invest and reinvest the assets of the firefighters' pension trust fund in annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the firefighters' pension trust fund are entitled under this chapter and pay the initial and subsequent premiums thereon.

(b) Invest and reinvest the assets of the firefighters' pension trust fund in:

1. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, or a savings, building, and loan association insured by the Savings Association Insurance Fund administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

2. Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States.

3. Bonds issued by the State of Israel.

4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, if:

a. The corporation is listed on any one or more of the recognized national stock exchanges or on the National Market System of the NASDAQ Stock Market and, in the case of bonds only, holds a rating in one of the three highest classifications by a major rating service; and

b. The board of trustees may not invest more than 5 percent of its assets in the common stock or capital stock of any one issuing company, nor may the aggregate investment in any one issuing company exceed 5 percent of the outstanding capital stock of that company or the aggregate of its investments under this subparagraph at cost exceed 50 percent of the assets of the fund.

This paragraph applies to all boards of trustees and participants. However, if a municipality or special fire control district has a duly enacted pension plan pursuant to, and in compliance with, s. 175.351, and the trustees desire to vary the investment procedures, the trustees of such plan must request a variance of the investment procedures as outlined herein only through a municipal ordinance, special act of the Legislature, or resolution by the governing body of the special fire control district; if a special act, or a municipality by ordinance adopted before July 1, 1998, permits a greater than 50-percent equity investment, such municipality is not required to comply with the aggregate equity investment provisions of this paragraph. Notwithstanding any other provision of law, this section may not be construed to take away any preexisting legal authority to make equity investments that exceed the requirements of this paragraph. Notwithstanding any other provision of law, the board of trustees may invest up to 25 percent of plan assets in foreign securities on a market-value basis. The investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law.

(c) Issue drafts upon the firefighters' pension trust fund pursuant to this act and rules prescribed by the board of trustees. All such drafts must be consecutively numbered, be signed by the chair and secretary, or by two individuals designated by the board who are subject to the same fiduciary standards as the board of trustees under this subsection, and state upon their faces the purpose for which the drafts are drawn. The treasurer or depository of each municipality or special fire control district shall retain such drafts when paid, as permanent vouchers for disbursements made, and no money may be otherwise drawn from the fund.

(d) Convert into cash any securities of the fund.

(e) Keep a complete record of all receipts and disbursements and the board's acts and proceedings.

(2) Any and all acts and decisions shall be effectuated by vote of a majority of the members of the board; however, no trustee shall take part in any action in connection with the trustee's own participation in the fund, and no unfair discrimination shall be shown to any individual firefighter participating in the fund.

(3) The board's action on all claims for retirement under this act shall be final, provided, however, that the rules and regulations of the board have been complied with.

(4) The secretary of the board of trustees shall keep a record of all persons receiving retirement payments under the provisions of this chapter, in which shall be noted the time when the pension is allowed and when the pension shall cease to be paid. In this record, the secretary shall keep a list of all firefighters employed by the municipality or special fire control district. The record shall show the name, address, and time of employment of such firefighters and when they cease to be employed by the municipality or special fire control district.

(5) The sole and exclusive administration of, and the responsibilities for, the proper operation of the firefighters' pension trust fund and for making effective the provisions of this chapter are vested in the board of trustees; however, nothing herein shall empower a board of trustees to amend the provisions of a retirement plan without the approval of the municipality or special fire control district. The board of trustees shall keep in convenient form such data as shall be necessary for an actuarial valuation of the firefighters' pension trust fund and for checking the actual experience of the fund.

(6)(a) At least once every 3 years, the board of trustees shall retain a professionally qualified independent consultant who shall evaluate the performance of any existing professional money manager and shall make recommendations to the board of trustees regarding the selection of money managers for the next investment term. These recommendations shall be considered by the board of trustees at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in the same manner as for any meeting of the board.

(b) For purposes of this subsection, the term "professionally qualified independent consultant" means a consultant who, based on education and experience, is professionally qualified to evaluate the performance of professional money managers, and who, at a minimum:

1. Provides his or her services on a flat-fee basis.
2. Is not associated in any manner with the money manager for the pension fund.
3. Makes calculations according to the American Banking Institute method of calculating time-weighted rates of return. All calculations must be made net of fees.
4. Has 3 or more years of experience working in the public sector.

(7) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(a) Employ independent legal counsel at the pension fund's expense.

(b) Employ an independent enrolled actuary, as defined in s. 175.032, at the pension fund's expense.

(c) Employ such independent professional, technical, or other advisers as it deems necessary at the pension fund's expense.

If the board chooses to use the municipality's or special district's legal counsel or actuary, or chooses to use any of the municipality's or special district's other professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

(8) Notwithstanding paragraph (1)(b) and as provided in s. 215.473, the board of trustees must identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in that section, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in that company beginning January 1, 2010. The divestiture of any such security must be completed by September 30, 2010. The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by s. 215.473, and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of effecting compliance with that section, the pension fund shall designate terror-free plans that allocate their funds among securities not subject to divestiture. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this subsection.

History.—s. 1, ch. 63-249; s. 1, ch. 65-365; ss. 22, 35, ch. 69-106; s. 3, ch. 81-168; s. 4, ch. 86-41; s. 16, ch. 93-193; s. 920, ch. 95-147; s. 1, ch. 98-134; s. 66, ch. 99-2; s. 17, ch. 99-392; s. 27, ch. 2000-151; s. 5, ch. 2009-97; s. 18, ch. 2010-5; s. 4, ch. 2015-39.

175.081 Use of annuity or insurance policies.—When the board of trustees of any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan purchases annuity or life insurance contracts to provide all or any part of the benefits as provided for by this chapter, the following principles shall be observed:

(1) Only those firefighters who have been members of the firefighters' pension trust fund for 1 year or more may participate in the insured plan.

(2) Individual policies shall be purchased only when a group insurance plan is not feasible.

(3) Each application and policy shall designate the firefighters' pension trust fund as owner of the policy.

(4) Policies shall be written on an annual premium basis.

(5) The type of policy shall be one which for the premium paid provides each individual with the maximum retirement benefit at his or her earliest statutory normal retirement age.

(6) Death benefit, if any, should not exceed:

(a) One hundred times the estimated normal retirement income, based on the assumption that the present rate of compensation continues without change to normal retirement date, or

(b) Twice the annual rate of compensation as of the date of termination of service, or

(c) The single-sum value of the accrued deferred retirement income (beginning at normal retirement date) at date of termination of service, whichever is greatest.

(7) An insurance plan may provide that the assignment of insurance contract to separating firefighters shall be at least equivalent to the return of the firefighters' contributions used to purchase the contract. An assignment of contract discharges the municipality or special fire control district, as appropriate, from all further obligation to the participant under the plan even though the cash value of such contract may be less than the firefighters' contributions.

(8) Provisions shall be made, either by issuance of separate policies or otherwise, that the separating firefighter does not receive cash value and other benefits under the policies assigned to him or her which exceed the present value of his or her vested interest under the firefighters' pension trust fund, inclusive of his or her contribution to the

plan; the contributions by the state shall not be exhausted faster merely because the method of funding adopted was through insurance companies.

(9) The firefighter shall have the right at any time to give the board of trustees written instructions designating the primary and contingent beneficiaries to receive death benefits or proceeds and the method of settlement of the death benefit or proceeds, or requesting a change in the beneficiary designation or method of settlement previously made, subject to the terms of the policy or policies on his or her life. Upon receipt of such written instructions, the board of trustees shall take necessary steps to effectuate the designation or change of beneficiary or settlement option.

History.—s. 1, ch. 63-249; s. 4, ch. 81-168; s. 17, ch. 93-193; s. 921, ch. 95-147; s. 6, ch. 99-1.

175.091 Creation and maintenance of fund.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) The firefighters' pension trust fund in each municipality and in each special fire control district shall be created and maintained in the following manner:

(a) By payment to the fund of the net proceeds of the 1.85-percent excise or other similar tax which may be imposed by the municipality or special fire control district upon fire insurance companies, fire insurance associations, or other property insurers on their gross receipts on premiums from holders of policies, which policies cover real or personal property within the corporate limits of such municipality, in the case of a municipal government, and within the legally defined jurisdiction of the district, in the case of a special fire control district. Whenever a municipality maintains a firefighters' pension trust fund under the provisions of this chapter but is partially contained within the boundaries of a special fire control district, that portion of the 1.85-percent excise, license, or other similar tax which is collected for insurance policies covering property within the jurisdiction of both the municipality and the special fire control district shall be given to the firefighters' pension trust fund of the fire service provider. Remaining revenues collected pursuant to this chapter shall be distributed to the municipality or special fire control district according to the location of the insured property.

(b) Except as reduced or increased contributions are authorized by subsection (2), by the payment to the fund of 5 percent of the salary of each uniformed firefighter who is a member or duly enrolled in the fire department of any municipality or special fire control district, which 5 percent shall be deducted by the municipality or special fire control district from the compensation due to the firefighter and paid over to the board of trustees of the firefighters' pension trust fund wherein such firefighter is employed. No firefighter shall have any right to the money so paid into the fund except as provided in this chapter.

(c) By all fines and forfeitures imposed and collected from any firefighter because of the violation of any rule and regulation promulgated by the board of trustees.

(d) By mandatory payment by the municipality or special fire control district of a sum equal to the normal cost of and the amount required to fund any actuarial deficiency shown by an actuarial valuation conducted under part VII of chapter 112 after taking into account the amounts described in paragraphs (b), (c), (e), (f), and (g) and the tax proceeds described in paragraph (a) which are used to fund benefits in a defined benefit plan component.

(e) By all gifts, bequests, and devises when donated to the fund.

(f) By all accretions to the fund by way of interest or dividends on bank deposits, or otherwise.

(g) By all other sources or income now or hereafter authorized by law for the augmentation of such firefighters' pension trust fund.

(2) Member contribution rates may be adjusted as follows:

(a) The employing municipality or special fire control district, by local ordinance or resolution, may elect to make an employee's contributions. However, under no circumstances may a municipality or special fire control district reduce the member contribution to less than one-half of 1 percent of salary.

(b) Firefighter member contributions may be increased by consent of the members' collective bargaining representative or, if none, by majority consent of firefighter members of the fund.

Nothing in this section shall be construed to require adjustment of member contribution rates in effect on the date this act becomes a law, including rates that exceed 5 percent of salary, provided that such rates are at least one-half of 1

percent of salary.

History.—s. 1, ch. 63-249; s. 1, ch. 65-58; s. 1, ch. 67-218; s. 5, ch. 81-168; s. 5, ch. 86-41; s. 18, ch. 93-193; s. 7, ch. 97-96; s. 7, ch. 99-1; s. 6, ch. 2011-216; s. 5, ch. 2015-39.

175.101 State excise tax on property insurance premiums authorized; procedure.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) Each municipality or special fire control district in this state described and classified in s. 175.041, having a lawfully established firefighters' pension trust fund or municipal fund or special fire control district fund, by whatever name known, providing pension benefits to firefighters as provided under this chapter, may assess and impose on every insurance company, corporation, or other insurer now engaged in or carrying on, or who shall hereinafter engage in or carry on, the business of property insurance as shown by the records of the Office of Insurance Regulation of the Financial Services Commission, an excise tax in addition to any lawful license or excise tax now levied by each of the municipalities or special fire control districts, respectively, amounting to 1.85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on property insurance policies covering property within the corporate limits of such municipalities or within the legally defined boundaries of special fire control districts, respectively. Whenever the boundaries of a special fire control district that has lawfully established a firefighters' pension trust fund encompass a portion of the corporate territory of a municipality that has also lawfully established a firefighters' pension trust fund, that portion of the tax receipts attributable to insurance policies covering property situated both within the municipality and the special fire control district shall be given to the fire service provider. For the purpose of this section, the boundaries of a special fire control district include an area that has been annexed until the completion of the 4-year period provided for in s. 171.093(4), or other agreed-upon extension, or if a special fire control district is providing services under an interlocal agreement executed in accordance with s. 171.093(3). The agent shall identify the fire service provider on the property owner's application for insurance. Remaining revenues collected pursuant to this chapter shall be distributed to the municipality or special fire control district according to the location of the insured property.

(2) In the case of multiple peril policies with a single premium for both the property and casualty coverages in such policies, 70 percent of such premium shall be used as the basis for the 1.85-percent tax.

(3) This excise tax shall be payable annually on March 1 of each year after the passage of an ordinance, in the case of a municipality, or resolution, in the case of a special fire control district, assessing and imposing the tax authorized by this section. Installments of taxes shall be paid according to the provision of s. 624.5092(2)(a), (b), and (c).

This section also applies to any municipality consisting of a single consolidated government which is made up of a former county and one or more municipalities, consolidated pursuant to the authority in s. 3 or s. 6(e), Art. VIII of the State Constitution, and to property insurance policies covering property within the boundaries of the consolidated government, regardless of whether the properties are located within one or more separately incorporated areas within the consolidated government, provided the properties are being provided fire protection services by the consolidated government. This section also applies to any municipality, as provided in s. 175.041(3)(c), which has entered into an interlocal agreement to receive fire protection services from another municipality participating under this chapter. The excise tax may be levied on all premiums collected on property insurance policies covering property located within the corporate limits of the municipality receiving the fire protection services, but will be available for distribution to the municipality providing the fire protection services.

History.—s. 1, ch. 63-249; s. 2, ch. 67-218; ss. 13, 35, ch. 69-106; s. 6, ch. 81-168; s. 6, ch. 86-41; s. 23, ch. 87-99; s. 14, ch. 88-206; s. 10, ch. 89-167; s. 19, ch. 93-193; s. 8, ch. 99-1; s. 2, ch. 2002-29; s. 161, ch. 2003-261; s. 3, ch. 2005-205; s. 6, ch. 2009-97.

175.1015 Determination of local premium tax situs.—

(1)(a) Any insurance company that is obligated to report and remit the excise tax on property insurance premiums imposed under s. 175.101 shall be held harmless from any liability, including, but not limited to, liability for taxes,

interest, or penalties that would otherwise be due solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction if the insurance company exercises due diligence in applying an electronic database provided by the Department of Revenue under subsection (2). Insurance companies that do not use the electronic database provided by the Department of Revenue or that do not exercise due diligence in applying the electronic database for tax years on or after January 1, 2006, are subject to a 0.5 percent penalty on the portion of the premium pertaining to any insured risk that is improperly assigned, whether assigned to an improper local taxing jurisdiction, not assigned to a local taxing jurisdiction when it should be assigned to a local taxing jurisdiction, or assigned to a local taxing jurisdiction when it should not be assigned to a local taxing jurisdiction.

(b) Any insurance company that is obligated to report and remit the excise tax on commercial property insurance premiums imposed under s. 175.101 and is unable, after due diligence, to assign an insured property to a specific local taxing jurisdiction for purposes of complying with paragraph (a) shall remit the excise tax on commercial property insurance premiums using a methodology of apportionment in a manner consistent with the remittance for the 2004 calendar year. An insurance company which makes two contacts with the agent responsible for a commercial property insurance application for the purpose of verifying information on the application necessary for the assignment to the appropriate taxing jurisdiction shall be considered to have exercised due diligence. Any insurance company which complies with the provisions of this paragraph shall not be subject to the penalty provided in paragraph (a).

(2)(a) The Department of Revenue shall, subject to legislative appropriation, create as soon as practical and feasible, and thereafter shall maintain, an electronic database that conforms to any format approved by the American National Standards Institute's Accredited Standards Committee X12 and that designates for each street address and address range in the state, including any multiple postal street addresses applicable to one street location, the local taxing jurisdiction in which the street address and address range is located, and the appropriate code for each such participating local taxing jurisdiction, identified by one nationwide standard numeric code. The nationwide standard numeric code must contain the same number of numeric digits, and each digit or combination of digits must refer to the same level of taxing jurisdiction throughout the United States and must be in a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission. Each address or address range must be provided in standard postal format, including the street number, street number range, street name, and zip code. Each year after the creation of the initial database, the Department of Revenue shall annually create and maintain a database for the current tax year. Each annual database must be calendar-year specific.

(b)1. Each participating local taxing jurisdiction shall furnish to the Department of Revenue all information needed to create the electronic database as soon as practical and feasible. The information furnished to the Department of Revenue must specify an effective date.

2. Each participating local taxing jurisdiction shall furnish to the Department of Revenue all information needed to create and update the current year's database, including changes in annexations, incorporations, and reorganizations and any other changes in jurisdictional boundaries, as well as changes in eligibility to participate in the excise tax imposed under this chapter. The information must specify an effective date and must be furnished to the Department of Revenue by July 1 of the current year.

3. The Department of Revenue shall create and update the current year's database in accordance with the information furnished by participating local taxing jurisdictions under subparagraph 1. or subparagraph 2., as appropriate. To the extent practicable, the Department of Revenue shall post each new annual database on a website by September 1 of each year. Each participating local taxing jurisdiction shall have access to this website and, within 30 days thereafter, shall provide any corrections to the Department of Revenue. The Department of Revenue shall finalize the current year's database and post it on a website by November 1 of the current year. If a dispute in jurisdictional boundaries cannot be resolved so that changes in boundaries may be included, as appropriate, in the database by November 1, the changes may not be retroactively included in the current year's database and the boundaries will remain the same as in the previous year's database. The finalized database must be used in assigning policies and premiums to the proper local taxing jurisdiction for the insurance premium tax return due on the following March 1 for the tax year 2005. For subsequent tax years, the finalized database must be used in assigning policies and premiums to the proper local taxing jurisdiction for the insurance premium tax return due for the tax year beginning on or after the January 1 following the website posting of the database. Information contained in the electronic

database is conclusive for purposes of this chapter. The electronic database is not an order, a rule, or a policy of general applicability.

4. Each annual database must identify the additions, deletions, and other changes to the preceding version of the database.

(3)(a) As used in this section, the term "due diligence" means the care and attention that is expected from and is ordinarily exercised by a reasonable and prudent person under the circumstances.

(b) Notwithstanding any law to the contrary, an insurance company is exercising due diligence if the insurance company complies with the provisions of paragraph (1)(b) or if the insurance company assigns an insured's premium to local taxing jurisdictions in accordance with the Department of Revenue's annual database and with respect to such database:

1. Expends reasonable resources to accurately and reliably implement such method;

2. Maintains adequate internal controls to correctly include in its database of policyholders the location of the property insured, in the proper address format, so that matching with the department's database is accurate; and

3. Corrects errors in the assignment of addresses to local taxing jurisdictions within 120 days after the insurance company discovers the errors.

(4) There is annually appropriated from the moneys collected under this chapter and deposited in the Police and Firefighter's Premium Tax Trust Fund an amount sufficient to pay the expenses of the Department of Revenue in administering this section, but not to exceed $50,000 annually, adjusted annually by the lesser of a 5-percent increase or the percentage of growth in the total collections.

(5) The Department of Revenue shall adopt rules necessary to administer this section, including rules establishing procedures and forms.

(6) Any insurer that is obligated to collect and remit the tax on property insurance imposed under s. 175.101 shall be held harmless from any liability, including, but not limited to, liability for taxes, interest, or penalties that would otherwise be due solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction, based on the collection and remission of the tax accruing before January 1, 2005, if the insurer collects and reports this tax consistent with filings for periods before January 1, 2005. Further, any insurer that is obligated to collect and remit the tax on property insurance imposed under this section is not subject to an examination under s. 624.316 or s. 624.3161 which would occur solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction, based on the collection and remission of such tax accruing before January 1, 2005.

History.—s. 2, ch. 2004-21.

175.111 Certified copy of ordinance or resolution filed; insurance companies' annual report of premiums; duplicate files; book of accounts.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, whenever any municipality passes an ordinance or whenever any special fire control district passes a resolution establishing a chapter plan or local law plan assessing and imposing the taxes authorized in s. 175.101, a certified copy of such ordinance or resolution shall be deposited with the division. Thereafter every insurance company, association, corporation, or other insurer carrying on the business of property insurance on real or personal property, on or before the succeeding March 1 after date of the passage of the ordinance or resolution, shall report fully in writing and under oath to the division and the Department of Revenue a just and true account of all premiums by such insurer received for property insurance policies covering or insuring any real or personal property located within the corporate limits of each such municipality or special fire control district during the period of time elapsing between the date of the passage of the ordinance or resolution and the end of the calendar year. The report shall include the code designation as prescribed by the division for each piece of insured property, real or personal, located within the corporate limits of each municipality and within the legally defined boundaries of each special fire control district. The aforesaid insurer shall annually thereafter, on March 1, file with the Department of Revenue a similar report covering the preceding year's premium receipts, and every such insurer at the same time of making such reports shall pay to the Department of Revenue the amount of the tax hereinbefore mentioned. Every insurer engaged in carrying on such insurance business in the state shall keep accurate books of accounts of all such business done by it within the corporate limits of each

such municipality and within the legally defined boundaries of each such special fire control district, and in such manner as to be able to comply with the provisions of this chapter. Based on the insurers' reports of premium receipts, the division shall prepare a consolidated premium report and shall furnish to any municipality or special fire control district requesting the same a copy of the relevant section of that report.

History.—s. 1, ch. 63-249; ss. 12, 13, 35, ch. 69-106; s. 1, ch. 75-240; s. 20, ch. 93-193; s. 1, ch. 95-250; s. 9, ch. 99-1; s. 6, ch. 2000-355.

175.121 Department of Revenue and Division of Retirement to keep accounts of deposits; disbursements.—For any municipality or special fire control district having a chapter or local law plan established pursuant to this chapter:

(1) The Department of Revenue shall keep a separate account of all moneys collected for each municipality and each special fire control district under the provisions of this chapter. All moneys so collected must be transferred to the Police and Firefighters' Premium Tax Trust Fund and shall be separately accounted for by the division. The moneys budgeted as necessary to pay the expenses of the division for the daily oversight and monitoring of the firefighters' pension plans under this chapter and for the oversight and actuarial reviews conducted under part VII of chapter 112 are annually appropriated from the interest and investment income earned on the moneys collected for each municipality or special fire control district and deposited in the Police and Firefighters' Premium Tax Trust Fund. Interest and investment income remaining thereafter in the trust fund which is unexpended and otherwise unallocated by law shall revert to the General Revenue Fund on June 30 of each year.

(2) The Chief Financial Officer shall, on or before July 1 of each year, and at such other times as authorized by the division, draw his or her warrants on the full net amount of money then on deposit in the Police and Firefighters' Premium Tax Trust Fund pursuant to this chapter, specifying the municipalities and special fire control districts to which the moneys must be paid and the net amount collected for and to be paid to each municipality or special fire control district, respectively, subject to the limitation on disbursement under s. 175.122. The sum payable to each municipality or special fire control district is appropriated annually out of the Police and Firefighters' Premium Tax Trust Fund. The warrants of the Chief Financial Officer shall be payable to the respective municipalities and special fire control districts entitled to receive them and shall be remitted annually by the division to the respective municipalities and special fire control districts. In lieu thereof, the municipality or special fire control district may provide authorization to the division for the direct payment of the premium tax to the board of trustees. In order for a municipality or special fire control district and its pension fund to participate in the distribution of premium tax moneys under this chapter, all the provisions shall be complied with annually, including state acceptance pursuant to part VII of chapter 112.

(3)(a) All moneys not distributed to municipalities and special fire control districts under this section as a result of the limitation on disbursement contained in s. 175.122, or as a result of any municipality or special fire control district not having qualified in any given year, or portion thereof, shall be transferred to the Firefighters' Supplemental Compensation Trust Fund administered by the Department of Revenue, as provided in s. 633.422.

(b)1. Moneys transferred under paragraph (a) but not needed to support the supplemental compensation program in a given year shall be redistributed pro rata to those participating municipalities and special fire control districts that transfer any portion of their funds to support the supplemental compensation program in that year. Such additional moneys shall be used to cover or offset costs of the retirement plan.

2. To assist the Department of Revenue, the division shall identify those municipalities and special fire control districts that are eligible for redistribution as provided in s. 633.422(3)(c)2., by listing the municipalities and special fire control districts from which funds were transferred under paragraph (a) and specifying the amount transferred by each.

History.—s. 1, ch. 63-249; ss. 13, 35, ch. 69-106; s. 1, ch. 74-294; s. 3, ch. 85-61; s. 7, ch. 86-41; s. 21, ch. 93-193; s. 11, ch. 94-259; s. 1449, ch. 95-147; s. 2, ch. 95-250; s. 10, ch. 99-1; s. 162, ch. 2003-261; s. 127, ch. 2013-183.

[1]**175.1215 Police and Firefighters' Premium Tax Trust Fund.**—The Police and Firefighters' Premium Tax Trust Fund is created, to be administered by the Division of Retirement of the Department of Management Services. Funds credited to the trust fund, as provided in chapter 95-250, Laws of Florida, or similar legislation, shall be expended for the purposes set forth in that legislation.

History.—s. 1, ch. 95-249.

[1]**Note.**— Also published at s. 185.105.

175.122 Limitation of disbursement.— For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, any municipality or special fire control district participating in the firefighters' pension trust fund pursuant to the provisions of this chapter, whether under a chapter plan or local law plan, shall be limited to receiving any moneys from such fund in excess of that produced by one-half of the excise tax, as provided for in s. 175.101; however, any such municipality or special fire control district receiving less than 6 percent of its fire department payroll from such fund shall be entitled to receive from such fund the amount determined under s. 175.121, in excess of one-half of the excise tax, not to exceed 6 percent of its fire department payroll. Payroll amounts of members included in the Florida Retirement System shall not be included.

History.—s. 1, ch. 67-217; s. 7, ch. 81-168; s. 22, ch. 93-193; s. 11, ch. 99-1.

175.131 Funds received by municipality or special fire control district; deposit in firefighters' pension trust fund.— For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, all state and other funds received by any municipality or special fire control district under the provisions of this chapter shall be deposited by such municipality or special fire control district immediately, and under no circumstances more than 5 days after receipt, with the board of trustees. In lieu thereof, the municipality or special fire control district may provide authorization to the division for the direct payment of the premium tax to the board of trustees. The board shall deposit such moneys in the Firefighters' Pension Trust Fund immediately, and under no circumstances more than 5 days after receipt. Employee contributions, however, which are withheld by the employer on behalf of an employee member shall be deposited immediately after each pay period with the board of trustees of the firefighters' pension trust fund. Employer contributions shall be deposited at least quarterly.

History.—s. 1, ch. 63-249; s. 8, ch. 81-168; s. 8, ch. 86-41; s. 23, ch. 93-193; s. 12, ch. 99-1.

175.141 Payment of excise tax credit on similar state excise or license tax.— The tax herein authorized to be imposed by each municipality and each special fire control district shall in nowise be in addition to any similar state excise or license tax imposed by part IV of chapter 624, but the payor of the tax hereby authorized shall receive credit therefor on his or her said state excise or license tax and the balance of said state excise or license tax shall be paid to the Department of Revenue as provided by law.

History.—s. 1, ch. 63-249; s. 9, ch. 86-41; s. 24, ch. 93-193; s. 922, ch. 95-147; s. 13, ch. 99-1.

175.151 Penalty for failure of insurers to comply with this act.— If any insurance company, corporation or other insurer fails to comply with the provisions of this act, on or before March 1 of each year as herein provided, the certificate of authority issued to said insurance company, corporation or other insurer to transact business in this state may be canceled and revoked by the Office of Insurance Regulation of the Financial Services Commission, and it is unlawful for any such insurance company, corporation, or other insurer to transact business thereafter in this state unless such insurance company, corporation, or other insurer shall be granted a new certificate of authority to transact any business in this state, in compliance with provisions of law authorizing such certificate of authority to be issued. The division is responsible for notifying the Office of Insurance Regulation regarding any such failure to comply.

History.—s. 1, ch. 63-249; ss. 13, 35, ch. 69-106; s. 14, ch. 99-1; s. 163, ch. 2003-261.

175.162 Requirements for retirement.— For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, any firefighter who completes 10 or more years of creditable service as a firefighter and attains age 55, or completes 25 years of creditable service as a firefighter and attains age 52, and who for such minimum period has been a member of the firefighters' pension trust fund operating under a chapter plan or local law plan, is eligible for normal retirement benefits. Normal retirement under the plan is retirement from the service of the municipality or special fire control district on or after the normal

retirement date. In such event, payment of retirement income will be governed by the following provisions of this section:

(1) The normal retirement date of each firefighter will be the first day of the month coincident with or next following the date on which he or she has completed 10 or more years of creditable service and attained age 55 or completed 25 years of creditable service and attained age 52.

(2)(a)1. The amount of monthly retirement income payable to a full-time firefighter who retires on or after his or her normal retirement date shall be an amount equal to the number of his or her years of credited service multiplied by 2.75 percent of his or her average final compensation as a full-time firefighter.

2. Effective July 1, 2015, a plan that is in compliance with this chapter except that the plan provides a benefit that is less than 2.75 percent of the average final compensation of a full-time firefighter for all years of credited service or provides an effective benefit that is less than 2.75 percent as a result of a maximum benefit limitation:

a. Must maintain, at a minimum, the percentage amount or maximum benefit limitation in effect on July 1, 2015, and is not required to increase the benefit to 2.75 percent of the average final compensation of a full-time firefighter for all years of credited service; or

b. If the plan changes the percentage amount or maximum benefit limitation to 2.75 percent or more of the average final compensation of a full-time firefighter for all years of credited service, the plan may not thereafter decrease the percentage amount or maximum benefit limitation to less than 2.75 percent of the average final compensation of a full-time firefighter for all years of credited service.

(b) The amount of monthly retirement income payable to a volunteer firefighter who retires on or after his or her normal retirement date shall be an amount equal to the number of his or her years of credited service multiplied by 2 percent of his or her average final compensation as a volunteer firefighter.

(3) The monthly retirement income payable in the event of normal retirement will be payable on the first day of each month. The first payment will be made on the firefighter's normal retirement date, or on the first day of the month coincident with or next following his or her actual retirement, if later, and the last payment will be the payment due next preceding the firefighter's death; except that, in the event the firefighter dies after retirement but before he or she has received retirement benefits for a period of 10 years, the same monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the firefighter for the balance of such 10-year period. If a firefighter continues in the service of the municipality or special fire control district beyond his or her normal retirement date and dies prior to his or her date of actual retirement, without an option made pursuant to s. 175.171 being in effect, monthly retirement income payments will be made for a period of 10 years to a beneficiary (or beneficiaries) designated by the firefighter as if the firefighter had retired on the date on which his or her death occurred.

(4) Early retirement under the plan is retirement from the service of the municipality or special fire control district, with the consent of the municipality or special fire control district, as of the first day of any calendar month which is prior to the firefighter's normal retirement date but subsequent to the date as of which he or she has both attained the age of 50 years and has been a member of this fund for 10 continuous years. In the event of early retirement, payment of retirement income shall be governed as follows: The monthly amount of retirement income payable to a firefighter who retires prior to his or her normal retirement date shall be in the amount computed as described in subsection (2), taking into account the firefighter's credited service to his or her date of actual retirement and final monthly compensation as of such date, such amount of retirement income to be actuarially reduced to take into account the firefighter's younger age and the earlier commencement of retirement income benefits. The amount of monthly income payable in the event of early retirement will be paid in the same manner as in subsection (3). In no event shall the early retirement reduction exceed 3 percent for each year by which the member's age at retirement preceded the member's normal retirement age, as provided in subsection (1).

History.—s. 1, ch. 63-249; s. 1, ch. 70-129; s. 9, ch. 81-168; s. 11, ch. 86-41; s. 26, ch. 93-193; s. 923, ch. 95-147; s. 16, ch. 99-1; s. 6, ch. 2015-39.

175.171 Optional forms of retirement income.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified in s. 175.162, a firefighter, upon written request to the board of trustees and subject to the approval of the

board of trustees, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

(a) A retirement income of larger monthly amount, payable to the firefighter for his or her lifetime only.

(b) A retirement income of a modified monthly amount, payable to the firefighter during the joint lifetime of the firefighter and a joint annuitant designated by the firefighter, and following the death of either of them, 100 percent, 75 percent, 66 2/3 percent, or 50 percent of such monthly amounts payable to the survivor for the lifetime of the survivor.

(c) Such other amount and form of retirement payments or benefits as, in the opinion of the board of trustees, will best meet the circumstances of the retiring firefighter.

1. The firefighter upon electing any option of this section must designate the joint annuitant or beneficiary to receive the benefit, if any, payable under the plan in the event of his or her death, and may change such designation, but any such change shall be deemed a new election and is subject to approval by the board of trustees. Such designation must name a joint annuitant or one or more primary beneficiaries where applicable. If a firefighter has elected an option with a joint annuitant or beneficiary and his or her retirement income benefits have commenced, the firefighter may change the designated joint annuitant or beneficiary, but only if the board of trustees consents to such change and if the joint annuitant last designated by the firefighter is alive when the firefighter files with the board of trustees a request for such change.

2. The consent of a firefighter's joint annuitant or beneficiary to any such change is not required.

3. The board of trustees may request evidence of the good health of the joint annuitant that is being removed, and the amount of the retirement income payable to the firefighter upon designation of a new joint annuitant shall be actuarially redetermined taking into account the age and gender of the former joint annuitant, the new joint annuitant, and the firefighter. Each designation must be made in writing on a form prepared by the board of trustees and filed with the board of trustees. If no designated beneficiary survives the firefighter, such benefits as are payable in the event of the death of the firefighter subsequent to his or her retirement shall be paid as provided in s. 175.181.

4. Notwithstanding the provisions of this paragraph, a retired firefighter may change his or her designation of joint annuitant or beneficiary up to two times as provided in s. 175.333 without the approval of the board of trustees or the current joint annuitant or beneficiary. The retiree is not required to provide proof of the good health of the joint annuitant or beneficiary being removed, and the joint annuitant or beneficiary being removed need not be living.

(2) Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(a) If a firefighter dies prior to his or her normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under s. 175.201.

(b) If the designated beneficiary or joint annuitant dies before the firefighter's retirement under the plan, the option elected is canceled automatically and a retirement income of the normal form and amount is payable to the firefighter upon retirement as if the election had not been made, unless a new election is made in accordance with this section or a new beneficiary is designated by the firefighter before retirement and within 90 days after the death of the beneficiary.

(c) If both the retired firefighter and the beneficiary (or beneficiaries) designated by him or her die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of paragraph (1)(c), the board of trustees may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with s. 175.181.

(d) If a firefighter continues beyond his or her normal retirement date pursuant to the provisions of s. 175.162(1) and dies prior to actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the firefighter in the amount or amounts computed as if the firefighter had retired under the option on the date on which death occurred.

(3) No firefighter may make any change in his or her retirement option after the date of cashing or depositing the first retirement check.

History.—s. 1, ch. 63-249; s. 2, ch. 65-58; s. 10, ch. 81-168; s. 12, ch. 86-41; s. 924, ch. 95-147; s. 17, ch. 99-1; s. 7, ch. 2009-97.

175.181 Beneficiaries.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) Each firefighter may, on a form provided for that purpose, signed and filed with the board of trustees, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of his or her death; and each designation may be revoked by such firefighter by signing and filing with the board of trustees a new designation-of-beneficiary form.

(2) If no beneficiary is named in the manner provided by subsection (1), or if no beneficiary designated by the member survives him or her, the death benefit, if any, which may be payable under the plan with respect to such deceased firefighter shall be paid by the board of trustees to the estate of such deceased firefighter, provided that the board of trustees, in its discretion, may direct that the commuted value of the remaining monthly income payments be paid in a lump sum. Any payment made to any person pursuant to this subsection shall operate as a complete discharge of all obligations under the plan with regard to the deceased firefighter and any other persons with rights under the plan and shall not be subject to review by anyone but shall be final, binding, and conclusive on all persons ever interested hereunder.

(3) Notwithstanding any other provision of law to the contrary, the surviving spouse of any pension participant member killed in the line of duty shall not lose survivor retirement benefits if the spouse remarries. The surviving spouse of such deceased member whose benefit terminated because of remarriage shall have the benefit reinstated as of July 1, 1994, at an amount that would have been payable had such benefit not been terminated.

History.—s. 1, ch. 63-249; s. 11, ch. 81-168; s. 4, ch. 94-171; s. 1450, ch. 95-147; s. 18, ch. 99-1; s. 2, ch. 2000-159.

175.191 Disability retirement.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) A firefighter having 10 or more years of credited service or a firefighter who becomes totally and permanently disabled in the line of duty, regardless of length of service, may retire from the service of the municipality or special fire control district under the plan if the firefighter becomes totally and permanently disabled as defined in subsection (2) by reason of any cause other than a cause set out in subsection (3) on or after the effective date of the plan. Such retirement shall herein be referred to as "disability retirement."

(2) A firefighter will be considered totally disabled if, in the opinion of the board of trustees, he or she is wholly prevented from rendering useful and efficient service as a firefighter; and a firefighter will be considered permanently disabled if, in the opinion of the board of trustees, he or she is likely to remain so disabled continuously and permanently from a cause other than is specified in subsection (3).

(3) A firefighter will not be entitled to receive any disability retirement income if the disability is a result of:

(a) Excessive and habitual use by the firefighter of drugs, intoxicants, or narcotics;

(b) Injury or disease sustained by the firefighter while willfully and illegally participating in fights, riots, or civil insurrections or while committing a crime;

(c) Injury or disease sustained by the firefighter while serving in any armed forces; or

(d) Injury or disease sustained by the firefighter after his or her employment has terminated.

(4) No firefighter shall be permitted to retire under the provisions of this section until he or she is examined by a duly qualified physician or surgeon, to be selected by the board of trustees for that purpose, and is found to be disabled in the degree and in the manner specified in this section. Any firefighter retiring under this section may be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons, to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.

(5) The benefit payable to a firefighter who retires from the service of a municipality or special fire control district due to total and permanent disability as a direct result of a disability is the monthly income payable for 10 years certain and life for which, if the firefighter's disability occurred in the line of duty, his or her monthly benefit shall be the accrued retirement benefit, but shall not be less than 42 percent of his or her average monthly salary at the time of disability. If after 10 years of service the disability is other than in the line of duty, the firefighter's monthly benefit shall be the accrued normal retirement benefit, but shall not be less than 25 percent of his or her average monthly salary at the time of disability.

(6) The monthly retirement income to which a firefighter is entitled in the event of his or her disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be, if the firefighter recovers from the disability, the payment due next preceding the date of such recovery or, if the firefighter dies without recovering from the disability, the payment due next preceding his or her death or the 120th monthly payment, whichever is later. In lieu of the benefit payment as provided in this paragraph, a firefighter may select an optional form as provided in s. 175.171. Any monthly retirement income payments due after the death of a disabled firefighter shall be paid to the firefighter's designated beneficiary (or beneficiaries) as provided in ss. 175.181 and 175.201.

(7) If the board of trustees finds that a firefighter who is receiving a disability retirement income is no longer disabled, as provided herein, the board of trustees shall direct that the disability retirement income be discontinued. "Recovery from disability" as used herein means the ability of the firefighter to render useful and efficient service as a firefighter.

(8) If the firefighter recovers from disability and reenters the service as a firefighter, service will be deemed to have been continuous, but the period beginning with the first month for which he or she received a disability retirement income payment and ending with the date he or she reentered the service may not be considered as credited service for the purpose of this plan.

History.—s. 1, ch. 63-249; s. 3, ch. 65-58; s. 2, ch. 70-129; s. 12, ch. 81-168; s. 13, ch. 86-41; s. 27, ch. 93-193; s. 925, ch. 95-147; s. 19, ch. 99-1.

175.195 False, misleading, or fraudulent statements made to obtain public retirement benefits prohibited; penalty.—

(1) It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit available under a retirement plan receiving funding under this chapter.

(2)(a) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) In addition to any applicable criminal penalty, upon conviction for a violation described in subsection (1), a participant or beneficiary of a pension plan receiving funding under this chapter may, in the discretion of the board of trustees, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under this chapter. For purposes of this paragraph, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

History.—s. 20, ch. 99-1.

175.201 Death prior to retirement; refunds of contributions; death benefits.— For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) If a firefighter dies before being eligible to retire, the heirs, legatees, beneficiaries, or personal representatives of such deceased firefighter shall be entitled to a refund of 100 percent, without interest, of the contributions made to the firefighters' pension trust fund by such deceased firefighter or, in the event an annuity or life insurance contract has been purchased by the board of trustees on such firefighter, then to the death benefits available under such life insurance or annuity contract subject to the limitations on such death benefits set forth in s. 175.081, whichever amount is greater.

(2) If a firefighter having at least 10 years of credited service dies prior to retirement, his or her beneficiary is entitled to the benefits otherwise payable to the firefighter at early or normal retirement age.

In the event that the death benefit paid by a life insurance company exceeds the limit set forth in s. 175.081, the excess of the death benefit over the limit shall be paid to the firefighters' pension trust fund. However, death benefits

provided pursuant to s. 112.191 or any other state or federal law shall not be included in the calculation of death or retirement benefits provided under this chapter.

History.—s. 1, ch. 63-249; s. 13, ch. 81-168; s. 14, ch. 86-41; s. 5, ch. 90-138; s. 28, ch. 93-193; s. 926, ch. 95-147; s. 21, ch. 99-1.

175.211 Separation from service; refunds.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) If a firefighter leaves the service of the municipality or special fire control district before accumulating aggregate time of 10 years toward retirement and before being eligible to retire under the provisions of this chapter, the firefighter shall be entitled to a refund of all of his or her contributions made to the firefighters' pension trust fund after July 1, 1963, without interest, less any disability benefits paid to him or her after July 1, 1963.

(2) If a firefighter who has been in the service of the municipality or special fire control district for at least 10 years elects to leave his or her accrued contributions, if contributions are required, in the firefighters' pension trust fund, such firefighter upon attaining the age of 50 years may retire at the actuarial equivalent of the amount of such retirement income otherwise payable to him or her, as provided in s. 175.162(4), or upon attaining age 55 years may retire as provided in s. 175.162(1).

History.—s. 1, ch. 63-249; s. 14, ch. 81-168; s. 29, ch. 93-193; s. 927, ch. 95-147; s. 22, ch. 99-1.

175.221 Lump-sum payment of small retirement income.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, notwithstanding any provisions of the plan to the contrary, if the monthly retirement income payable to any person entitled to benefits hereunder is less than $100, or if the single-sum value of the accrued retirement income is less than $5,000, as of the date of retirement or termination of service, whichever is applicable, the board of trustees, in the exercise of its discretion, may specify that the actuarial equivalent of such retirement income be paid in a lump sum.

History.—s. 1, ch. 63-249; s. 23, ch. 99-1.

175.231 Diseases of firefighters suffered in line of duty; presumption.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, any condition or impairment of health of a firefighter caused by tuberculosis, hypertension, or heart disease resulting in total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty unless the contrary is shown by competent evidence, provided that such firefighter shall have successfully passed a physical examination before entering into such service, which examination failed to reveal any evidence of such condition. This section shall be applicable to all firefighters only with reference to pension and retirement benefits under this chapter.

History.—s. 1, ch. 63-249; s. 15, ch. 81-168; s. 24, ch. 99-1.

175.241 Exemption from tax and execution.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the pensions, annuities, or other benefits accrued or accruing to any person under any chapter plan or local law plan under the provisions of this chapter and the accumulated contributions and the cash securities in the funds created under this chapter are hereby exempted from any state, county, or municipal tax and shall not be subject to execution or attachment or to any legal process whatsoever, and shall be unassignable.

History.—s. 1, ch. 63-249; s. 25, ch. 99-1.

175.261 Annual report to Division of Retirement; actuarial valuations.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the board of trustees for every chapter plan and local law plan shall submit the following reports to the division:

(1) With respect to chapter plans:

(a) Each year, by February 1, the chair or secretary of the board of trustees of each firefighters' pension trust fund operating under a chapter plan shall file a report with the division which contains:

1. A statement of whether in fact the municipality or special fire control district is within the provisions of s. 175.041.

2. An independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in assets, for the most recent plan year, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning and end of the year.

3. A statistical exhibit showing the total number of firefighters on the force, the number included in the retirement plan and the number ineligible, classified according to the reason for their being ineligible, and the number of disabled firefighters and retired firefighters and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

4. A statement of the amount the municipality or special fire control district, or other income source, has contributed to the retirement fund for the most recent plan year and the amount the municipality or special fire control district will contribute to the retirement fund during its current plan year.

5. If any benefits are insured with a commercial insurance company, the report should include a statement of the relationship of the insured benefits to the benefits provided by this chapter as well as the name of the insurer and information about the basis of premium rates, mortality table, interest rates, and method used in valuing retirement benefits.

(b) In addition to annual reports provided under paragraph (a), by February 1 of each triennial year, an actuarial valuation of the chapter plan must be made by the division at least once every 3 years, as provided in s. 112.63, commencing 3 years from the last actuarial valuation of the plan or system for existing plans, or commencing 3 years from issuance of the initial actuarial impact statement submitted under s. 112.63 for newly created plans. To that end, the chair of the board of trustees for each firefighters' pension trust fund operating under a chapter plan shall report to the division such data as it needs to complete an actuarial valuation of each fund. The forms for each municipality and special fire control district shall be supplied by the division. The expense of this actuarial valuation shall be borne by the firefighters' pension trust fund established by ss. 175.041 and 175.121. The requirements of this section are supplemental to the actuarial valuations necessary to comply with s. 218.39.

(2) With respect to local law plans:

(a) Each year, on or before March 15, the trustees of the retirement plan shall submit the following information to the division in order for the retirement plan of such municipality or special fire control district to receive a share of the state funds for the then-current calendar year:

1. A certified copy of each and every instrument constituting or evidencing the plan. This includes the formal plan, including all amendments, the trust agreement, copies of all insurance contracts, and formal announcement material.

2. An independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in assets, for the most recent plan year, showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year.

3. A certified statement listing the investments of the plan and a description of the methods used in valuing the investments.

4. A statistical exhibit showing the total number of firefighters, the number included in the plan, and the number ineligible classified according to the reasons for their being ineligible, and the number of disabled and retired firefighters and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

5. A certified statement describing the methods, factors, and actuarial assumptions used in determining the cost.

6. A certified statement by an enrolled actuary showing the results of the latest actuarial valuation of the plan and a copy of the detailed worksheets showing the computations used in arriving at the results.

7. A statement of the amount the municipality or special fire control district, or other income source, has contributed toward the plan for the most recent plan year and will contribute toward the plan for the current plan year.

When any of the items required hereunder is identical to the corresponding item submitted for a previous year, it is not necessary for the trustees to submit duplicate information if they make reference to the item in the previous year's

report.

(b) In addition to annual reports provided under paragraph (a), an actuarial valuation of the retirement plan must be made at least once every 3 years, as provided in s. 112.63, commencing 3 years from the last actuarial valuation of the plan or system for existing plans, or commencing 3 years from issuance of the initial actuarial impact statement submitted under s. 112.63 for newly created plans. Such valuation shall be prepared by an enrolled actuary, subject to the following conditions:

1. The assets shall be valued as provided in s. 112.625(7).
2. The cost of the actuarial valuation must be paid by the individual firefighters' retirement fund or by the sponsoring municipality or special fire control district.
3. A report of the valuation, including actuarial assumptions and type and basis of funding, shall be made to the division within 3 months after the date of valuation. If any benefits are insured with a commercial insurance company, the report must include a statement of the relationship of the retirement plan benefits to the insured benefits, the name of the insurer, the basis of premium rates, and the mortality table, interest rate, and method used in valuing the retirement benefits.

History.—s. 1, ch. 63-249; s. 4, ch. 65-58; ss. 13, 35, ch. 69-106; s. 17, ch. 81-168; s. 15, ch. 86-41; s. 31, ch. 93-193; s. 928, ch. 95-147; s. 7, ch. 96-324; s. 27, ch. 99-1; s. 42, ch. 2001-266; s. 15, ch. 2004-305.

175.301 Depository for pension funds.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, all funds of the firefighters' pension trust fund of any chapter plan or local law plan under this chapter may be deposited by the board of trustees with the treasurer of the municipality or special fire control district, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality or special fire control district. However, any funds so deposited with the treasurer of the municipality or special fire control district shall be kept in a separate fund by the treasurer or clearly identified as such funds of the firefighters' pension trust fund. In lieu thereof, the board of trustees shall deposit the funds of the firefighters' pension trust fund in a qualified public depository as defined in s. 280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of chapter 280.

History.—s. 1, ch. 63-249; s. 19, ch. 81-168; s. 17, ch. 86-41; s. 2, ch. 88-185; s. 33, ch. 93-193; s. 930, ch. 95-147; s. 29, ch. 99-1.

175.311 Municipalities, special fire control districts, and boards independent of each other.—In the enforcement and interpretation of the provisions of this chapter for any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, each municipality and each special fire control district shall be independent of any other municipality or special fire control district, and the board of trustees of the firefighters' pension trust fund of each municipality and each special fire control district shall function for the municipality or special fire control district that it serves as trustee. Each board of trustees shall be independent of the municipality or special fire control district for which it serves as board of trustees to the extent required to accomplish the intent, requirements, and responsibilities provided for in this chapter.

History.—s. 1, ch. 63-249; s. 4, ch. 79-380; s. 18, ch. 86-41; s. 34, ch. 93-193; s. 30, ch. 99-1.

175.333 Discrimination in benefit formula prohibited; restrictions regarding designation of joint annuitants.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) No plan shall discriminate in its benefit formula based on color, national origin, sex, or marital status.

(2)(a) If a plan offers a joint annuitant option and the member selects such option, or if a plan specifies that the member's spouse is to receive the benefits that continue to be payable upon the death of the member, then, in both of these cases, after retirement benefits have commenced, a retired member may change his or her designation of joint annuitant or beneficiary only twice.

(b) Any retired member who desires to change his or her joint annuitant or beneficiary shall file with the board of trustees of his or her plan a notarized notice of such change either by registered letter or on such form as is provided

by the administrator of the plan. Upon receipt of a completed change of joint annuitant form or such other notice, the board of trustees shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. Nothing herein shall preclude a plan from actuarially adjusting benefits or offering options based upon sex, age, early retirement, or disability.

(3) Eligibility for coverage under the plan must be based upon length of service or attained age, or both, and benefits must be determined by a nondiscriminatory formula based upon:

(a) Length of service and compensation; or

(b) Length of service.

History.—s. 4, ch. 79-380; s. 19, ch. 86-41; s. 932, ch. 95-147; s. 33, ch. 99-1.

175.341 Duties of Division of Retirement; rulemaking authority; investments by State Board of Administration.—

(1) The division shall be responsible for the daily oversight and monitoring for actuarial soundness of the firefighters' pension plans, whether chapter or local law plans, established under this chapter, for receiving and holding the premium tax moneys collected under this chapter, and, upon determining compliance with the provisions of this chapter, for disbursing those moneys to the firefighters' pension plans. The funds necessary to pay expenses for such administration shall be annually appropriated from the interest and investment income earned on moneys deposited in the trust fund.

(2) The State Board of Administration shall invest and reinvest the moneys in the trust fund collected under this chapter in accordance with ss. 215.44-215.53. Costs incurred by the board in carrying out the provisions of this subsection shall be deducted from the interest and investment income accruing to the trust fund.

History.—s. 1, ch. 63-249; ss. 13, 35, ch. 69-106; s. 36, ch. 93-193; s. 3, ch. 95-250; s. 11, ch. 98-200; s. 34, ch. 99-1; s. 48, ch. 2012-116.

175.351 Municipalities and special fire control districts that have their own retirement plans for firefighters.—In order for a municipality or special fire control district that has its own retirement plan for firefighters, or for firefighters and police officers if both are included, to participate in the distribution of the tax fund established under s. 175.101, a local law plan must meet minimum benefits and minimum standards, except as provided in the mutual consent provisions in paragraph (1)(g) with respect to the minimum benefits not met as of October 1, 2012.

(1) If a municipality has a retirement plan for firefighters, or for firefighters and police officers if both are included, which in the opinion of the division meets minimum benefits and minimum standards, the board of trustees of the retirement plan must place the income from the premium tax in s. 175.101 in such plan for the sole and exclusive use of its firefighters, or for firefighters and police officers if both are included, where it shall become an integral part of that plan and be used to fund benefits as provided herein. Effective October 1, 2015, for noncollectively bargained service or upon entering into a collective bargaining agreement on or after July 1, 2015:

(a) The base premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality or special fire control district.

(b) Of the additional premium tax revenues received that are in excess of the amount received for the 2012 calendar year, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality or special fire control district, and 50 percent must be placed in a defined contribution plan to fund special benefits.

(c) Additional premium tax revenues not described in paragraph (b) must be used to fund benefits that are not included in the minimum benefits. If the additional premium tax revenues subject to this paragraph exceed the full annual cost of benefits provided through the plan which are in excess of the minimum benefits, any amount in excess of the full annual cost must be used as provided in paragraph (b).

(d) Of any accumulations of additional premium tax revenues which have not been allocated to fund benefits in excess of the minimum benefits, 50 percent of the amount of the accumulations must be used to fund special benefits, and 50 percent must be applied to fund any unfunded actuarial liabilities of the plan; provided that any amount of

accumulations in excess of the amount required to fund the unfunded actuarial liabilities must be used to fund special benefits.

(e) For a plan created after March 1, 2015, 50 percent of the insurance premium tax revenues must be used to fund defined benefit plan component benefits, with the remainder used to fund defined contribution plan component benefits.

(f) If a plan offers benefits in excess of the minimum benefits, such benefits, excluding supplemental plan benefits in effect as of September 30, 2014, may be reduced if the plan continues to meet minimum benefits and minimum standards. The amount of insurance premium tax revenues previously used to fund benefits in excess of minimum benefits before the reduction, excluding the amount of any additional premium tax revenues distributed to a supplemental plan for the 2012 calendar year, must be used as provided in paragraph (b). However, benefits in excess of minimum benefits may not be reduced if a plan does not meet the minimum percentage amount of 2.75 percent of the average final compensation of a full-time firefighter, as required by s. 175.162(2)(a)1., or provides an effective benefit that is below 2.75 percent as a result of a maximum benefit limitation as described in s. 175.162(2)(a)2.

(g) Notwithstanding paragraphs (a)-(f), the use of premium tax revenues, including any accumulations of additional premium tax revenues which have not been allocated to fund benefits in excess of minimum benefits, may deviate from the provisions of this subsection by mutual consent of the members' collective bargaining representative or, if there is no representative, by a majority of the firefighter members of the fund, and by consent of the municipality or special fire control district, provided that the plan continues to meet minimum benefits and minimum standards; however, a plan that operates pursuant to this paragraph and does not meet minimum benefits as of October 1, 2012, may continue to provide the benefits that do not meet the minimum benefits at the same level as was provided as of October 1, 2012, and all other benefit levels must continue to meet the minimum benefits. Such mutually agreed deviation must continue until modified or revoked by subsequent mutual consent of the members' collective bargaining representative or, if none, by a majority of the firefighter members of the fund, and the municipality or special fire control district. An existing arrangement for the use of premium tax revenues contained within a special act plan or a plan within a supplemental plan municipality is considered, as of July 1, 2015, to be a deviation for which mutual consent has been granted.

(2) The premium tax provided by this chapter must be used in its entirety to provide retirement benefits to firefighters, or to firefighters and police officers if both are included. Local law plans created by special act before May 27, 1939, are deemed to comply with this chapter.

(3) A retirement plan or amendment to a retirement plan may not be proposed for adoption unless the proposed plan or amendment contains an actuarial estimate of the costs involved. Such proposed plan or proposed plan change may not be adopted without the approval of the municipality, special fire control district, or, where required, the Legislature. Copies of the proposed plan or proposed plan change and the actuarial impact statement of the proposed plan or proposed plan change shall be furnished to the division before the last public hearing on the proposal is held. Such statement must also indicate whether the proposed plan or proposed plan change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter. Notwithstanding any other provision, only those local law plans created by special act of legislation before May 27, 1939, are deemed to meet minimum benefits and minimum standards.

(4) Notwithstanding any other provision, with respect to any supplemental plan municipality:

(a) A local law plan and a supplemental plan may continue to use their definition of compensation or salary in existence on March 12, 1999.

(b) Section 175.061(1)(b) does not apply, and a local law plan and a supplemental plan shall continue to be administered by a board or boards of trustees numbered, constituted, and selected as the board or boards were numbered, constituted, and selected on December 1, 2000.

(5) The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing, and copies made available to the participants and to the general public.

(6) In addition to the defined benefit plan component of the local law plan, each plan sponsor must have a defined contribution plan component within the local law plan by October 1, 2015, for noncollectively bargained service, upon

entering into a collective bargaining agreement on or after July 1, 2015, or upon the creation date of a new participating plan. Depending upon the application of subsection (1), a defined contribution plan component may or may not receive any funding.

(7) Notwithstanding any other provision of this chapter, a municipality or special fire control district that has implemented or proposed changes to a local law plan based on the municipality's or district's reliance on an interpretation of this chapter by the Department of Management Services on or after August 14, 2012, and before March 3, 2015, may continue the implemented changes or continue to implement proposed changes. Such reliance must be evidenced by a written collective bargaining proposal or agreement, or formal correspondence between the municipality or district and the Department of Management Services which describes the specific changes to the local law plan, with the initial proposal, agreement, or correspondence from the municipality or district dated before March 3, 2015. Changes to the local law plan which are otherwise contrary to minimum benefits and minimum standards may continue in effect until the earlier of October 1, 2018, or the effective date of a collective bargaining agreement that is contrary to the changes to the local law plan.

History.—s. 1, ch. 63-249; ss. 13, 35, ch. 69-106; s. 5, ch. 79-380; s. 21, ch. 81-168; s. 47, ch. 83-217; s. 20, ch. 86-41; s. 37, ch. 93-193; s. 933, ch. 95-147; s. 35, ch. 99-1; s. 4, ch. 2002-66; s. 5, ch. 2004-21; s. 7, ch. 2011-216; s. 7, ch. 2015-39.

175.361 Termination of plan and distribution of fund.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the plan may be terminated by the municipality or special fire control district. Upon termination of the plan by the municipality or special fire control district for any reason or because of a transfer, merger, or consolidation of governmental units, services, or functions as provided in chapter 121, or upon written notice by the municipality or special fire control district to the board of trustees that contributions under the plan are being permanently discontinued, the rights of all employees to benefits accrued to the date of such termination and the amounts credited to the employees' accounts are nonforfeitable. The fund shall be distributed in accordance with the following procedures:

(1) The board of trustees shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits after taking into account the expenses of such distribution. The board shall inform the municipality or special fire control district if additional assets are required, in which event the municipality or special fire control district shall continue to financially support the plan until all nonforfeitable benefits have been funded.

(2) The board of trustees shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each firefighter entitled to benefits under the plan as specified in subsection (3).

(3) The board of trustees shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.

(4) If there is asset value remaining after the full distribution specified in subsection (3), and after the payment of any expenses incurred with such distribution, such excess shall be returned to the municipality or special fire control district, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the municipality or special fire control district and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the municipality or special fire control district and the state.

(5) The board of trustees shall distribute, in accordance with subsection (2), the amounts determined under subsection (3).

If, after 24 months after the date the plan terminated or the date the board received written notice that the contributions thereunder were being permanently discontinued, the municipality or special fire control district or the

board of trustees of the firefighters' pension trust fund affected has not complied with all the provisions in this section, the Department of Management Services shall effect the termination of the fund in accordance with this section.

History.—s. 1, ch. 63-249; s. 5, ch. 65-58; s. 22, ch. 81-168; s. 48, ch. 83-217; s. 21, ch. 86-41; s. 38, ch. 93-193; s. 934, ch. 95-147; s. 36, ch. 99-1; s. 8, ch. 2009-97.

175.371 Transfer to another state retirement system; benefits payable.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) Any firefighter who has a vested right to benefits under a pension plan created pursuant to the provisions of this chapter and who elects to participate in another state retirement system may not receive a benefit under the provisions of the latter retirement system for any year's service for which benefits are paid under the provisions of the pension plan created pursuant to this chapter.

(2) When every active participant in any pension plan created pursuant to this chapter elects to transfer to another state retirement system, the pension plan created pursuant to this chapter shall be terminated and the assets distributed in accordance with s. 175.361. If some participants in a pension plan created pursuant to this chapter elect to transfer to another state retirement system and other participants elect to remain in the existing plan created pursuant to this chapter, the plan created pursuant to this chapter shall continue to receive state premium tax moneys until fully funded. If the plan is fully funded at a particular valuation date and not fully funded at a later valuation date, the plan shall resume receipt of state premium tax moneys until the plan is once again fully funded. "Fully funded" means that the present value of all benefits, accrued and projected, is less than the available assets and the present value of future member contributions and future plan sponsor contributions on an actuarial entry age cost funding basis. Effective May 31, 1998, for plans discussed herein, the plan shall remain in effect until the final benefit payment has been made to the last participant or beneficiary and shall then be terminated in accordance with s. 175.361.

History.—s. 22, ch. 86-41; s. 37, ch. 99-1; s. 5, ch. 2002-66.

175.381 Applicability.—This act shall apply to all municipalities, special fire control districts, chapter plans, local law municipalities, local law special fire control districts, or local law plans presently existing or to be created pursuant to this chapter. Those plans presently existing pursuant to s. 175.351 and not in compliance with the provisions of this act must comply no later than December 31, 1999. However, the plan sponsor of any plan established by special act of the Legislature shall have until July 1, 2000, to comply with the provisions of this act, except as otherwise provided in this act with regard to establishment and election of board members. The provisions of this act shall be construed to establish minimum standards and minimum benefit levels, and nothing contained in this act or in chapter 175 shall operate to reduce presently existing rights or benefits of any firefighter, directly, indirectly, or otherwise.

History.—s. 23, ch. 86-41; s. 38, ch. 99-1.

175.401 Retiree health insurance subsidy.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, under the broad grant of home rule powers under the Florida Constitution and chapter 166, municipalities have the authority to establish and administer locally funded health insurance subsidy programs. In addition, special fire control districts may, by resolution, establish and administer locally funded health insurance subsidy programs. Pursuant thereto:

(1) PURPOSE.—The purpose of this section is to allow municipalities and special fire control districts the option to use premium tax moneys, as provided for under this chapter, to establish and administer health insurance subsidy programs which will provide a monthly subsidy payment to retired members of any firefighters' pension trust fund system or plan as provided under this chapter, or to beneficiaries who are spouses or financial dependents entitled to receive benefits under such a plan, in order to assist such retired members or beneficiaries in paying the costs of health insurance.

(2) RETIREE HEALTH INSURANCE SUBSIDY TRUST FUNDS; ESTABLISHMENT AND TERMINATION.—

(a) Any municipality or special fire control district having a firefighters' pension trust fund system or plan as provided under this chapter may, in its discretion, establish by ordinance or resolution, as appropriate, a trust fund to be known as the firefighters' retiree health insurance subsidy trust fund. This fund may be a separate account established for such purpose in the existing firefighters' pension fund, provided that all funds deposited in such account are segregated from, and not commingled with, pension funds or other public moneys and that the account otherwise conforms to the requirements of subsection (8). The trust fund shall be used to account for all moneys received and disbursed pursuant to this section.

(b) Prior to the second reading of the ordinance before the municipal legislative body, or of the resolution before the governing body of the special fire control district, an actuarial valuation must be performed by an enrolled actuary as provided in s. 112.63, and copies of the valuation and the proposed implementing ordinance or resolution shall be furnished to the division.

(c) The subsidy program may, at the discretion of the municipal governing body, be permanently discontinued by municipal ordinance, and at the discretion of the governing body of a special fire control district may be permanently discontinued by resolution, at any time, subject to the requirements of any applicable collective bargaining agreement, in the same manner and subject to the same conditions established for plan termination and fund distribution under s. 175.361.

(3) FUNDING.—Trust funds established pursuant to this section shall be funded in the following manner:

(a) By payment to the fund of an amount equivalent to one-half of the net increase over the previous tax year in the premium tax funds provided for in this chapter, said amount to be established in the implementing ordinance or resolution.

(b) By no less than one-half of 1 percent of the base salary of each firefighter, for so long as the firefighter is employed and covered by a pension plan established pursuant to this chapter. The municipality or special fire control district, with approval of the board of trustees, may increase member contributions if needed to fund benefits greater than the minimums established in this section.

(c) By payment by the municipality or special fire control district, on at least a quarterly basis, of whatever sum is determined necessary to maintain the actuarial soundness of the fund in accordance with s. 112.64.

Such contributions and payments shall be submitted to the board of trustees of the firefighters' pension trust fund, or the plan trustees in the case of local law plans established under s. 175.351, and deposited in the firefighters' retiree health insurance subsidy trust fund, in the same manner and subject to the same time constraints as provided under s. 175.131.

(4) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who has contributed to the retiree health insurance subsidy trust fund and retires under a firefighters' pension trust fund system or plan as provided under this chapter, including any local law plan as provided under s. 175.351, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under such a plan, is eligible for health insurance subsidy payments provided under this section. However, the fund, with approval of the board of trustees and approval of the municipality or special fire control district, may provide coverage to retirees and beneficiaries when the retirees have not contributed to the fund as provided in subsection (3). Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the board of trustees of the firefighters' pension trust fund.

(5) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—Beginning on the effective date established in the implementing ordinance or resolution, each eligible retiree, or beneficiary who is a spouse or financial dependent thereof, shall receive a monthly retiree health insurance subsidy payment equal to the aggregate number of years of service, as defined in s. 175.032, completed at the time of retirement multiplied by an amount determined in the implementing ordinance or resolution, but no less than $3 for each year of service. Nothing herein shall be construed to restrict the plan sponsor from establishing, in the implementing ordinance or resolution, a cap of no less than 30 years upon the number of years' service for which credit will be given toward a health insurance subsidy or a maximum monthly subsidy amount.

(6) PAYMENT OF RETIREE HEALTH INSURANCE SUBSIDY.—Beginning on the effective date established in the implementing ordinance or resolution, any monthly retiree health insurance subsidy amount due and payable under this section shall be paid to retired members, or their eligible beneficiaries, by the board of trustees of the firefighters' pension trust fund, or the plan trustees in the case of local law plans established under s. 175.351, in the same manner as provided by s. 175.071(1)(c) for drafts upon the pension fund.

(7) INVESTMENT OF THE TRUST FUND.—The trustees of the firefighters' pension trust fund, or the plan trustees in the case of local law plans established under s. 175.351, are hereby authorized to invest and reinvest the funds of the firefighters' retiree health insurance subsidy trust fund in the same manner and subject to the same conditions as apply hereunder to the investment of firefighters' pension funds under s. 175.071.

(8) DEPOSIT OF HEALTH INSURANCE SUBSIDY FUNDS.—All funds of the health insurance subsidy fund may be deposited by the board of trustees with the treasurer of the municipality or special fire control district, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality or special fire control district. Any funds so deposited shall be segregated by the treasurer in a separate fund, clearly identified as funds of the health insurance subsidy fund. In lieu thereof, the board of trustees shall deposit the funds of the health insurance subsidy fund in a qualified public depository as defined in s. 280.02, which shall conform to and be bound by the provisions of chapter 280 with regard to such funds. In no case shall the funds of the health insurance subsidy fund be deposited in any financial institution, brokerage house trust company, or other entity that is not a public depository as provided by s. 280.02.

(9) SEPARATION FROM SERVICE; REFUNDS.—Any firefighter who terminates employment with a municipality or special fire control district having a retiree health insurance subsidy trust fund system or plan as provided under this section shall be entitled to a refund of all employee contributions he or she made to that trust fund, without interest, regardless of whether the firefighter has vested for purposes of retirement. Any firefighter who has vested for purposes of retirement in the service of the municipality or special fire control district, and has contributed to the firefighters' retiree health insurance subsidy trust fund for so long as he or she was eligible to make such contributions, may, in his or her discretion, elect to leave his or her accrued contributions in the fund, whereupon, such firefighter shall, upon retiring and commencing to draw retirement benefits, receive a health insurance subsidy based upon his or her aggregate number of years of service, as defined in s. 175.032.

(10) ADMINISTRATION OF SYSTEM; ACTUARIAL VALUATIONS; AUDITS; RULES; ADMINISTRATIVE COSTS.—The board of trustees of the firefighters' pension trust fund, or the plan trustees in the case of local law plans established under s. 175.351, shall be solely responsible for administering the health insurance subsidy trust fund. Pursuant thereto:

(a) As part of its administrative duties, no less frequently than every 3 years, the board shall have an actuarial valuation of the firefighters' retiree health insurance subsidy trust fund prepared as provided in s. 112.63 by an enrolled actuary, covering the same reporting period or plan year used for the firefighters' pension plan, and shall submit a report of the valuation, including actuarial assumptions and type and basis of funding, to the division.

(b) By February 1 of each year, the trustees shall file a report with the division, containing an independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in assets, for the most recent plan year, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning of and end of the year.

(c) The trustees may adopt such rules and regulations as are necessary for the effective and efficient administration of this section.

(d) At the discretion of the plan sponsor, the cost of administration may be appropriated from the trust fund or paid directly by the plan sponsor.

(11) BENEFITS.—Subsidy payments shall be payable under the firefighters' retiree health insurance subsidy program only to participants in the program or their beneficiaries. Such subsidy payments shall not be subject to assignment, execution, or attachment or to any legal process whatsoever, and shall be in addition to any other benefits to which eligible recipients are entitled under any workers' compensation law, pension law, collective bargaining agreement, municipal or county ordinance, or any other state or federal statute.

(12) DISTRIBUTION OF PREMIUM TAXES; COMPLIANCE REQUIRED.—Premium tax dollars for which spending authority is granted under this section shall be distributed from the Police and Firefighters' Premium Tax Trust Fund and remitted annually to municipalities and special fire control districts in the same manner as provided under this chapter for firefighters' pension funds. Once a health insurance subsidy plan has been implemented by a municipality or special fire control district under this section, in order for the municipality or special fire control district to participate in the distribution of premium tax dollars authorized under this section, all provisions of this section, including state acceptance pursuant to part VII of chapter 112, shall be complied with, and said premium tax dollars may be withheld for noncompliance.

History.—s. 1, ch. 92-51; s. 39, ch. 93-193; s. 12, ch. 94-259; s. 1451, ch. 95-147; s. 4, ch. 95-250; s. 40, ch. 99-1.

175.411 Optional participation.— A municipality or special fire control district may revoke its participation under this chapter by rescinding the legislative act, ordinance, or resolution which assesses and imposes the taxes authorized in s. 175.101, and by furnishing a certified copy of such legislative act, ordinance, or resolution to the division. Thereafter, the municipality or special fire control district shall be prohibited from participating under this chapter, and shall not be eligible for future premium tax moneys. Premium tax moneys previously received shall continue to be used for the sole and exclusive benefit of firefighters, or firefighters and police officers where included, and no amendment, legislative act, ordinance, or resolution shall be adopted which shall have the effect of reducing the then-vested accrued benefits of the firefighters, retirees, or their beneficiaries. The municipality or special fire control district shall continue to furnish an annual report to the division as provided in s. 175.261. If the municipality or special fire control district subsequently terminates the defined benefit plan, they shall do so in compliance with the provisions of s. 175.361.

History.—s. 81, ch. 99-1.

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The Florida Senate

2017 Florida Statutes

Title XII MUNICIPALITIES	**Chapter 185** **MUNICIPAL POLICE PENSIONS**

CHAPTER 185
MUNICIPAL POLICE PENSIONS

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185.01 Legislative declaration.—

(1) It is hereby found and declared by the Legislature that police officers as hereinafter defined perform both state and municipal functions; that they make arrests for violations of state traffic laws on public highways; that they keep the public peace; that they conserve both life and property; and that their activities are vital to public welfare of this state. Therefore the Legislature declares that it is a proper and legitimate state purpose to provide a uniform retirement system for the benefit of police officers as hereinafter defined and intends, in implementing the provisions of s. 14, Art. X of the State Constitution as they relate to municipal police officers' retirement trust fund systems and plans, that such retirement systems or plans be managed, administered, operated, and funded in such manner as to maximize the protection of police officers' retirement trust funds. Therefore, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.

(2) This chapter hereby establishes, for all municipal pension plans provided for under this chapter, including chapter plans and local law plans, minimum benefits and minimum standards for the operation and funding of such plans, hereinafter referred to as municipal police officers' retirement trust funds, which must be met as conditions precedent to the plan or plan sponsor's receiving a distribution of insurance premium tax revenues under s. 185.10. Minimum benefits and minimum standards for each plan may not be diminished by local ordinance or by special act of the Legislature and may not be reduced or offset by any other local, state, or federal plan that includes police officers in its operation, except as provided under s. 112.65.

History.—s. 1, ch. 28230, 1953; s. 1, ch. 86-42; s. 41, ch. 99-1; s. 8, ch. 2015-39.

185.015 Short title.—This chapter may be cited as the "Marvin B. Clayton Police Officers Pension Trust Fund Act."

History.—s. 3, ch. 2004-21.

185.02 Definitions.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the term:

(1) "Additional premium tax revenues" means revenues received by a municipality pursuant to s. 185.10 which exceed base premium tax revenues.

(2) "Average final compensation" means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service before retirement, termination, or death.

(3) "Base premium tax revenues" means:

(a) For a local law plan in effect on October 1, 2003, the revenues received by a municipality pursuant to s. 185.10 for the 2002 calendar year.

(b) For a local law plan created between October 1, 2003, and March 1, 2015, inclusive, the revenues received by a municipality pursuant to s. 185.10 based upon the tax collections during the second calendar year of participation.

(4) "Casualty insurance" means automobile public liability and property damage insurance to be applied at the place of residence of the owner, or if the subject is a commercial vehicle, to be applied at the place of business of the owner; automobile collision insurance; fidelity bonds; burglary and theft insurance; and plate glass insurance. The term "multiple peril" means a combination or package policy that includes both property coverage and casualty coverage for a single premium.

(5) "Chapter plan" means a separate defined benefit pension plan for police officers which incorporates by reference the provisions of this chapter and has been adopted by the governing body of a municipality as provided in s. 185.08. Except as specifically authorized in this chapter, the provisions of a chapter plan may not differ from the plan provisions set forth in ss. 185.01-185.341 and ss. 185.37-185.39. Actuarial valuations of chapter plans shall be conducted by the division as provided by s. 185.221(1)(b).

(6) "Compensation" or "salary" means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the total cash remuneration including "overtime" paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or special detail work performed on behalf of a second party employer. Overtime may be limited before July 1, 2011, in a local law plan by the plan provisions. For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011,

the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be included.

(a) Any retirement trust fund or plan that meets the requirements of this chapter does not, solely by virtue of this subsection, reduce or diminish the monthly retirement income otherwise payable to each police officer covered by the retirement trust fund or plan.

(b) The member's compensation or salary contributed as employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the Internal Revenue Code shall be deemed to be the compensation or salary the member would receive if he or she were not participating in such program and shall be treated as compensation for retirement purposes under this chapter.

(c) For any person who first becomes a member in any plan year beginning on or after January 1, 1996, compensation for that plan year may not include any amounts in excess of the Internal Revenue Code s. 401(a)(17) limitation, as amended by the Omnibus Budget Reconciliation Act of 1993, which limitation of $150,000 shall be adjusted as required by federal law for qualified government plans and further adjusted for changes in the cost of living in the manner provided by Internal Revenue Code s. 401(a)(17)(B). For any person who first became a member before the first plan year beginning on or after January 1, 1996, the limitation on compensation may not be less than the maximum compensation amount that was allowed to be taken into account under the plan in effect on July 1, 1993, which limitation shall be adjusted for changes in the cost of living since 1989 in the manner provided by Internal Revenue Code s. 401(a)(17)(1991).

(7) "Creditable service" or "credited service" means the aggregate number of years of service and fractional parts of years of service of any police officer, omitting intervening years and fractional parts of years when such police officer may not have been employed by the municipality subject to the following conditions:

(a) A police officer may not receive credit for years or fractional parts of years of service if he or she has withdrawn his or her contributions to the fund for those years or fractional parts of years of service, unless the police officer repays into the fund the amount he or she has withdrawn, plus interest as determined by the board. The member has at least 90 days after his or her reemployment to make repayment.

(b) A police officer may voluntarily leave his or her contributions in the fund for 5 years after leaving the employ of the police department, pending the possibility of his or her being rehired by the same department, without losing credit for the time he or she has participated actively as a police officer. If he or she is not reemployed as a police officer with the same department within 5 years, his or her contributions shall be returned without interest.

(c) Credited service under this chapter shall be provided only for service as a police officer or for military service and may not include credit for any other type of service. A municipality, by local ordinance, may provide for the purchase of credit for military service occurring before employment as well as prior service as a police officer for some other employer as long as the police officer is not entitled to receive a benefit for such prior service. For purposes of determining credit for prior service, in addition to service as a police officer in this state, credit may be given for federal, other state, or county service as long as such service is recognized by the Criminal Justice Standards and Training Commission within the Department of Law Enforcement as provided in chapter 943 or the police officer provides proof to the board of trustees that such service is equivalent to the service required to meet the definition of a police officer.

(d) In determining the creditable service of a police officer, credit for up to 5 years of the time spent in the military service of the Armed Forces of the United States shall be added to the years of actual service if:

1. The police officer is in the active employ of the municipality before such service and leaves a position, other than a temporary position, for the purpose of voluntary or involuntary service in the Armed Forces of the United States.

2. The police officer is entitled to reemployment under the Uniformed Services Employment and Reemployment Rights Act.

3. The police officer returns to his or her employment as a police officer of the municipality within 1 year after the date of his or her release from such active service.

(8) "Deferred Retirement Option Plan" or "DROP" means a local law plan retirement option in which a police officer may elect to participate. A police officer may retire for all purposes of the plan and defer receipt of retirement benefits into a DROP account while continuing employment with his or her employer. However, a police officer who enters the DROP and who is otherwise eligible to participate may not be precluded from participation or continued participation in a supplemental plan in existence on, or created after, March 12, 1999.

(9) "Defined contribution plan" means the component of a local law plan, as provided in s. 185.35(1), to which deposits, if any, are made to provide benefits for police officers, or for police officers and firefighters if both are included. Such component is an element of a local law plan and exists in conjunction with the defined benefit component that meets minimum benefits and minimum standards. The retirement benefits, if any, of the defined contribution plan shall be provided through individual member accounts in accordance with the applicable provisions of the Internal Revenue Code and related regulations and are limited to the contributions, if any, made into each member's account and the actual accumulated earnings, net of expenses, earned on the member's account.

(10) "Division" means the Division of Retirement of the Department of Management Services.

(11) "Enrolled actuary" means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(12) "Local law municipality" means any municipality in which a local law plan exists.

(13) "Local law plan" means a retirement plan that includes both a defined benefit plan component and a defined contribution plan component for police officers, or for police officers and firefighters if both are included, as described in s. 185.35, established by municipal ordinance or special act of the Legislature, which sets forth all plan provisions. Local law plan provisions may vary from the provisions of this chapter if minimum benefits and minimum standards are met. However, any such variance must provide a greater benefit for police officers. Actuarial valuations of local law plans shall be conducted by an enrolled actuary as provided in s. 185.221(2)(b).

(14) "Minimum benefits" means the benefits specified in ss. 185.01-185.341 and ss. 185.37-185.50.

(15) "Minimum standards" means the standards specified in ss. 185.01-185.50.

(16) "Police officer" means any person who is elected, appointed, or employed full time by a municipality, who is certified or required to be certified as a law enforcement officer in compliance with s. 943.1395, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as those terms are defined in s. 943.10. For the purposes of this chapter only, the term also includes a public safety officer who is responsible for performing both police and fire services. Any plan may provide that the police chief shall have an option to participate in that plan.

(17) "Police Officers' Retirement Trust Fund" means a trust fund, by whatever name known, as provided under s. 185.03 for the purpose of assisting municipalities in establishing and maintaining a retirement plan for police officers.

(18) "Retiree" or "retired police officer" means a police officer who has entered retirement status. For the purposes of a plan that includes a Deferred Retirement Option Plan (DROP), a police officer who enters the DROP is considered a retiree for all purposes of the plan. However, a police officer who enters the DROP and who is otherwise eligible to participate may not be precluded from participation or continued participation in a supplemental plan in existence on, or created after, March 12, 1999.

(19) "Retirement" means a police officer's separation from municipal employment as a police officer with immediate eligibility for benefits under the plan. For purposes of a plan that includes a Deferred Retirement Option Plan (DROP), "retirement" means the date a police officer enters the DROP.

(20) "Special act plan" means a plan subject to the provisions of this chapter which was created by an act of the Legislature and continues to require an act of the Legislature to alter plan benefits.

(21) "Special benefits" means benefits provided in a defined contribution plan component for police officers.

(22) "Supplemental plan" means a plan to which deposits of the premium tax moneys as provided in s. 185.08 are made to provide special benefits to police officers, or police officers and firefighters if both are included. Such a plan is

an element of a local law plan and exists in conjunction with a defined benefit plan component that meets minimum benefits and minimum standards. Any supplemental plan in existence on March 1, 2015, shall be deemed to be a defined contribution plan in compliance with s. 185.35(6).

(23) "Supplemental plan municipality" means a local law municipality in which any supplemental plan existed as of December 1, 2000.

History.—s. 11, ch. 28230, 1953; s. 1, ch. 29825, 1955; s. 1, ch. 59-320; s. 1, ch. 61-85; s. 7, ch. 79-380; s. 2, ch. 79-388; s. 2, ch. 86-42; s. 43, ch. 91-45; s. 40, ch. 93-193; s. 939, ch. 95-147; s. 14, ch. 95-154; s. 42, ch. 99-1; s. 28, ch. 2000-151; s. 3, ch. 2000-159; s. 2, ch. 2002-66; s. 9, ch. 2009-97; s. 8, ch. 2011-216; s. 9, ch. 2015-39.

185.03 Municipal police officers' retirement trust funds; creation; applicability of provisions; participation by public safety officers.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) There shall be established a special fund exclusively for the purpose of this chapter, which in the case of chapter plans shall be known as the "Municipal Police Officers' Retirement Trust Fund," in each municipality of this state, heretofore or hereafter created, which now has or which may hereafter have a regularly organized police department, and which now owns and uses or which may hereafter own and use equipment and apparatus of a value exceeding $500 in serviceable condition for the prevention of crime and for the preservation of life and property.

(2)(a) This chapter applies only to municipalities organized and established pursuant to the laws of the state and does not apply to the unincorporated areas of a county or to a governmental entity whose police officers are eligible to participate in the Florida Retirement System.

(b) With respect to the distribution of premium taxes, a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, is also eligible to participate under this chapter. The consolidated government shall notify the division when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

(3) No municipality shall establish more than one retirement plan for public safety officers which is supported in whole or in part by the distribution of premium tax funds as provided by this chapter or chapter 175, nor shall any municipality establish a retirement plan for public safety officers which receives premium tax funds from both this chapter and chapter 175.

History.—s. 1, ch. 28230, 1953; s. 2, ch. 29825, 1955; s. 2, ch. 61-119; s. 1, ch. 65-152; s. 7, ch. 79-380; s. 2, ch. 79-388; s. 3, ch. 86-42; s. 43, ch. 99-1; s. 1, ch. 2014-28.

185.04 Actuarial deficits not state obligations.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, actuarial deficits, if any, arising under this chapter are not the obligation of the state.

History.—s. 1b, ch. 28230, 1953; s. 44, ch. 99-1.

185.05 Board of trustees; members; terms of office; meetings; legal entity; costs; attorney's fees.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) In each municipality described in s. 185.03 there is hereby created a board of trustees of the municipal police officers' retirement trust fund, which shall be solely responsible for administering the trust fund. Effective October 1, 1986, and thereafter:

(a) The membership of the board of trustees for chapter plans consists of five members, two of whom, unless otherwise prohibited by law, must be legal residents of the municipality and must be appointed by the legislative body of the municipality, and two of whom must be police officers as defined in s. 185.02 who are elected by a majority of the active police officers who are members of such plan. With respect to any chapter plan or local law plan that, on January 1, 1997, allowed retired police officers to vote in such elections, retirees may continue to vote in such elections. The fifth member shall be chosen by a majority of the previous four members, and such person's name shall be submitted to the legislative body of the municipality. Upon receipt of the fifth person's name, the legislative body

shall, as a ministerial duty, appoint such person to the board of trustees. The fifth member shall have the same rights as each of the other four members appointed or elected, shall serve as trustee for a period of 2 years, and may succeed himself or herself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the legislative body at whose pleasure the member serves, and may succeed himself or herself as a trustee. Each police officer member shall serve as trustee for a period of 2 years, unless he or she sooner leaves the employment of the municipality as a police officer, whereupon a successor shall be chosen in the same manner as an original appointment. Each police officer may succeed himself or herself in office. The terms of office of the appointed and elected members of the board of trustees may be amended by municipal ordinance or special act of the Legislature to extend the terms from 2 years to 4 years. The length of the terms of office shall be the same for all board members.

(b) The membership of boards of trustees for local law plans is as follows:

1. If a municipality has a pension plan for police officers only, the provisions of paragraph (a) shall apply.

2. If a municipality has a pension plan for police officers and firefighters, the provisions of paragraph (a) apply, except that one member of the board shall be a police officer and one member shall be a firefighter as defined in s. 175.032, respectively, elected by a majority of the active firefighters and police officers who are members of the plan.

3. Any board of trustees operating a local law plan on July 1, 1999, which is combined with a plan for general employees shall hold an election of the police officers, or police officers and firefighters if included, to determine whether a plan is to be established for police officers only, or for police officers and firefighters where included. Based on the election results, a new board shall be established as provided in subparagraph 1. or subparagraph 2., as appropriate. The municipality shall enact an ordinance to implement the new board by October 1, 1999. The newly established board shall take whatever action is necessary to determine the amount of assets which is attributable to police officers, or police officers and firefighters where included. Such assets shall include all employer, employee, and state contributions made by or on behalf of police officers, or police officers and firefighters where included, and any investment income derived from such contributions. All such moneys shall be transferred into the newly established retirement plan, as directed by the board.

With respect to any board of trustees operating a local law plan on June 30, 1986, this paragraph does not permit the reduction of the membership percentage of police officers or police officers and firefighters. However, for the sole purpose of changing municipal representation, a municipality may by ordinance change the municipal representation on the board of trustees operating a local law plan by ordinance, only if such change does not reduce the membership percentage of police officers, or police officers and firefighters, or the membership percentage of the municipal representation.

(c) Whenever the active police officer membership of a closed chapter plan or closed local law plan as provided in s. 185.38 falls below 10, an active police officer member seat may be held by either a retired police officer or an active police officer member of the plan who is elected by the active and retired members of the plan. If there are no active or retired police officers remaining in the plan or capable of serving, the remaining board members may elect an individual to serve in the active police officer member seat. Upon receipt of such person's name, the legislative body of the municipality shall, as a ministerial duty, appoint such person to the board of trustees. This paragraph applies only to those plans that are closed to new members under s. 185.38(2), and does not apply to any other municipality having a chapter or local law plan.

(d) If the chapter plan or local law plan with an active membership of 10 or more is closed to new members, the member seats may be held by either a retiree, as defined in s. 185.02, or an active police officer of the plan who has been elected by the active police officers. A closed plan means a plan that is closed to new members but continues to operate, pursuant to s. 185.38(2), for participants who elect to remain in the existing plan. This paragraph applies only to those plans that are closed to new members pursuant to s. 185.38(2) and does not apply to any other municipality that has a chapter plan or a local law plan.

(2) The trustees shall by majority vote elect from its members a chair and a secretary. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by Florida law.

(3) The board of trustees shall meet at least quarterly each year.

(4) Each board of trustees shall be a legal entity that shall have, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

(5) In any judicial proceeding or administrative proceeding under chapter 120 brought under or pursuant to the provisions of this chapter, the prevailing party shall be entitled to recover the costs thereof, together with reasonable attorney's fees.

(6) The board of trustees may, upon written request by the retiree of the plan, or by a dependent, if authorized by the retiree or the retiree's beneficiary, authorize the plan administrator to withhold from the monthly retirement payment funds necessary to pay for the benefits being received through the governmental entity from which the employee retired, to pay the certified bargaining agent of the governmental entity, and to make any payments for child support or alimony. Upon the written request of the retiree of the plan, the board of trustees may also authorize the plan administrator to withhold from the retirement payment those funds necessary to pay for premiums for accident, health, and long-term care insurance for the retiree and the retiree's spouse and dependents. A retirement plan does not incur liability for participation in this permissive program if its actions are taken in good faith.

(7) The provisions of this section may not be altered by a participating municipality operating a chapter or local law plan under this chapter.

(8)(a) The board of trustees shall:

1. Provide a detailed accounting report of its expenses for each fiscal year to the plan sponsor and the Department of Management Services and make the report available to each member of the plan and post the report on the board's website, if the board has a website. The report must include all administrative expenses that, for purposes of this subsection, are expenses relating to any legal counsel, actuary, plan administrator, and all other consultants, and all travel and other expenses paid to or on behalf of the members of the board of trustees or anyone else on behalf of the plan.

2. Operate under an administrative expense budget for each fiscal year, provide a copy of the budget to the plan sponsor, and make available a copy of the budget to plan members before the beginning of the fiscal year. If the board of trustees amends the administrative expense budget, the board must provide a copy of the amended budget to the plan sponsor and make available a copy of the amended budget to plan members.

(b) Notwithstanding s. 185.35(2) and (3), a local law plan created by special act before May 27, 1939, must comply with the provisions of this subsection.

History.—s. 2, ch. 28230, 1953; s. 2, ch. 59-320; s. 2, ch. 61-119; s. 4, ch. 86-42; s. 41, ch. 93-193; s. 940, ch. 95-147; s. 45, ch. 99-1; s. 6, ch. 2002-66; s. 8, ch. 2004-21; s. 10, ch. 2009-97; s. 9, ch. 2011-216; s. 10, ch. 2015-39.

185.06 General powers and duties of board of trustees.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) The board of trustees, subject to the fiduciary standards in ss. 112.656, 112.661, and 518.11 and the Code of Ethics in ss. 112.311-112.3187, may:

(a) Invest and reinvest the assets of the retirement trust fund in annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the municipal police officers' retirement trust fund are entitled under this chapter, and pay the initial and subsequent premiums thereon.

(b) Invest and reinvest the assets of the retirement trust fund in:

1. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, or a savings and loan association insured by the Savings Association Insurance Fund administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

2. Obligations of the United States or obligations guaranteed as to principal and interest by the United States.

3. Bonds issued by the State of Israel.

4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, provided:

a. The corporation is listed on any one or more of the recognized national stock exchanges or on the National Market System of the NASDAQ Stock Market and, in the case of bonds only, holds a rating in one of the three highest classifications by a major rating service; and

b. The board of trustees may not invest more than 5 percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed 5 percent of the outstanding capital stock of the company or the aggregate of its investments under this subparagraph at cost exceed 50 percent of the fund's assets.

This paragraph applies to all boards of trustees and participants. However, if a municipality has a duly enacted pension plan pursuant to, and in compliance with, s. 185.35 and the trustees desire to vary the investment procedures, the trustees of such plan shall request a variance of the investment procedures as outlined herein only through a municipal ordinance or special act of the Legislature; if a special act, or a municipality by ordinance adopted before July 1, 1998, permits a greater than 50-percent equity investment, such municipality is not required to comply with the aggregate equity investment provisions of this paragraph. Notwithstanding any other provision of law, this section may not be construed to take away any preexisting legal authority to make equity investments that exceed the requirements of this paragraph. Notwithstanding any other provision of law, the board of trustees may invest up to 25 percent of plan assets in foreign securities on a market-value basis. The investment cap on foreign securities may not be revised, amended, repealed, or increased except as provided by general law.

(c) Issue drafts upon the municipal police officers' retirement trust fund pursuant to this act and rules prescribed by the board of trustees. All such drafts shall be consecutively numbered, be signed by the chair and secretary or by two individuals designated by the board who are subject to the same fiduciary standards as the board of trustees under this subsection, and state upon their faces the purposes for which the drafts are drawn. The city treasurer or other depository shall retain such drafts when paid, as permanent vouchers for disbursements made, and no money may otherwise be drawn from the fund.

(d) Finally decide all claims to relief under the board's rules and regulations and pursuant to the provisions of this act.

(e) Convert into cash any securities of the fund.

(f) Keep a complete record of all receipts and disbursements and of the board's acts and proceedings.

(2) Any and all acts and decisions shall be effectuated by vote of a majority of the members of the board; however, no trustee shall take part in any action in connection with his or her own participation in the fund, and no unfair discrimination shall be shown to any individual employee participating in the fund.

(3) The secretary of the board of trustees shall keep a record of all persons receiving retirement payments under the provisions of this chapter, in which shall be noted the time when the pension is allowed and when the pension shall cease to be paid. In this record, the secretary shall keep a list of all police officers employed by the municipality. The record shall show the name, address, and time of employment of such police officer and when he or she ceases to be employed by the municipality.

(4) The sole and exclusive administration of, and the responsibilities for, the proper operation of the retirement trust fund and for making effective the provisions of this chapter are vested in the board of trustees; however, nothing herein shall empower a board of trustees to amend the provisions of a retirement plan without the approval of the municipality. The board of trustees shall keep in convenient form such data as shall be necessary for an actuarial valuation of the retirement trust fund and for checking the actual experience of the fund.

(5)(a) At least once every 3 years, the board of trustees shall retain a professionally qualified independent consultant who shall evaluate the performance of any existing professional money manager and shall make recommendations to the board of trustees regarding the selection of money managers for the next investment term. These recommendations shall be considered by the board of trustees at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in the same manner as for any meeting of the board.

(b) For the purpose of this subsection, the term "professionally qualified independent consultant" means a consultant who, based on education and experience, is professionally qualified to evaluate the performance of

professional money managers, and who, at a minimum:

1. Provides his or her services on a flat-fee basis.
2. Is not associated in any manner with the money manager for the pension fund.
3. Makes calculations according to the American Banking Institute method of calculating time-weighted rates of return. All calculations must be made net of fees.
4. Has 3 or more years of experience working in the public sector.

(6) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(a) Employ independent legal counsel at the pension fund's expense.

(b) Employ an independent enrolled actuary, as defined in s. 185.02, at the pension fund's expense.

(c) Employ such independent professional, technical, or other advisers as it deems necessary at the pension fund's expense.

If the board chooses to use the municipality's or special district's legal counsel or actuary, or chooses to use any of the municipality's other professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

(7) Notwithstanding paragraph (1)(b) and as provided in s. 215.473, the board of trustees must identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in that section, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in that company beginning January 1, 2010. The divestiture of any such security must be completed by September 10, 2010. The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by s. 215.473, and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of effecting compliance with that section, the pension fund shall designate terror-free plans that allocate their funds among securities not subject to divestiture. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this subsection.

History.—s. 3, ch. 28230, 1953; s. 1, ch. 57-118; s. 3, ch. 59-320; s. 2, ch. 61-119; s. 1, ch. 65-366; ss. 22, 35, ch. 69-106; s. 5, ch. 86-42; s. 941, ch. 95-147; s. 2, ch. 98-134; s. 67, ch. 99-2; s. 18, ch. 99-392; s. 29, ch. 2000-151; s. 11, ch. 2009-97; s. 19, ch. 2010-5; s. 11, ch. 2015-39.

185.061 Use of annuity or insurance policies.—When the board of trustees of any municipality, chapter plan, local law municipality, or local law plan purchases annuity or life insurance contracts to provide all or part of the benefits promised by this chapter, the following principles shall be observed:

(1) Only those officers who have been members of the retirement trust fund for 1 year or longer may be included in the insured plan.

(2) Individual policies shall be purchased only when a group insurance plan is not feasible.

(3) Each application and policy shall designate the pension fund as owner of the policy.

(4) Policies shall be written on an annual premium basis.

(5) The type of policy shall be one which for the premium paid provides each individual with the maximum retirement benefit at his or her earliest statutory normal retirement age.

(6) Death benefit, if any, should not exceed:

(a) One hundred times the estimated normal monthly retirement income, based on the assumption that the present rate of compensation continues without change to normal retirement date, or

(b) Twice the annual rate of compensation as of the date of termination of service, or

(c) The single-sum value of the accrued deferred retirement income (beginning at normal retirement date) at date of termination of service, whichever is greatest.

(7) An insurance plan may provide that the assignment of insurance contract to separating officer shall be at least equivalent to the return of the officer's contributions used to purchase the contract. An assignment of contract

discharges the municipality from all further obligation to the participant under the plan even though the cash value of such contract may be less than the employee's contributions.

(8) Provisions shall be made, either by issuance of separate policies, or otherwise, that the separating officer does not receive cash values and other benefits under the policies assigned to the officer which exceed the present value of his or her vested interest under the retirement plan, inclusive of the officer's contribution to the plan; the contributions by the state shall not be exhausted faster merely because the method of funding adopted was through insurance companies.

(9) The police officer shall have the right at any time to give the board of trustees written instructions designating the primary and contingent beneficiaries to receive death benefit or proceeds and the method of the settlement of the death benefit or proceeds, or requesting a change in the beneficiary, designation or method of settlement previously made, subject to the terms of the policy or policies on the officer's life. Upon receipt of such written instructions, the board of trustees shall take the necessary steps to effectuate the designation or change of beneficiary or settlement option.

History.—s. 4, ch. 59-320; s. 2, ch. 61-119; s. 942, ch. 95-147; s. 46, ch. 99-1.

185.07 Creation and maintenance of fund.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) The municipal police officers' retirement trust fund in each municipality described in s. 185.03 shall be created and maintained in the following manner:

(a) By the net proceeds of the .85-percent excise tax which may be imposed by the respective cities and towns upon certain casualty insurance companies on their gross receipts of premiums from holders of policies, which policies cover property within the corporate limits of such municipalities, as is hereinafter expressly authorized.

(b) Except as reduced or increased contributions are authorized by subsection (2), by the payment to the fund of 5 percent of the salary of each full-time police officer duly appointed and enrolled as a member of such police department, which 5 percent shall be deducted by the municipality from the compensation due to the police officer and paid over to the board of trustees of the retirement trust fund wherein such police officer is employed. No police officer shall have any right to the money so paid into the fund except as provided in this chapter.

(c) By all fines and forfeitures imposed and collected from any police officer because of the violation of any rule adopted by the board of trustees.

(d) By payment by the municipality or other sources of a sum equal to the normal cost and the amount required to fund any actuarial deficiency shown by an actuarial valuation conducted under part VII of chapter 112 after taking into account the amounts described in paragraphs (b), (c), (e), (f), and (g) and the tax proceeds described in paragraph (a) which are used to fund benefits provided in a defined benefit plan component.

(e) By all gifts, bequests and devises when donated to the fund.

(f) By all accretions to the fund by way of interest or dividends on bank deposits or otherwise.

(g) By all other sources of income now or hereafter authorized by law for the augmentation of such municipal police officers' retirement trust fund.

(2) Member contribution rates may be adjusted as follows:

(a) The employing municipality, by local ordinance, may elect to make an employee's contributions. However, under no circumstances may a municipality reduce the member contribution to less than one-half of 1 percent of salary.

(b) Police officer member contributions may be increased by consent of the members' collective bargaining representative or, if none, by majority consent of police officer members of the fund.

Nothing in this section shall be construed to require adjustment of member contribution rates in effect on the date this act becomes a law, including rates that exceed 5 percent of salary, provided that such rates are at least one-half of 1 percent of salary.

History.—s. 4, ch. 28230, 1953; s. 3, ch. 29825, 1955; s. 5, ch. 59-320; s. 2, ch. 61-119; s. 6, ch. 86-42; s. 943, ch. 95-147; s. 5, ch. 95-250; s. 47, ch. 99-1; s. 10, ch. 2011-216; s. 12, ch. 2015-39.

185.08 State excise tax on casualty insurance premiums authorized; procedure.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1)(a) Each incorporated municipality in this state described and classified in s. 185.03, as well as each other city or town of this state which on July 31, 1953, had a lawfully established municipal police officers' retirement trust fund or city fund, by whatever name known, providing pension or relief benefits to police officers as provided under this chapter, may assess and impose on every insurance company, corporation, or other insurer now engaged in or carrying on, or who shall hereafter engage in or carry on, the business of casualty insurance as shown by records of the Office of Insurance Regulation of the Financial Services Commission, an excise tax in addition to any lawful license or excise tax now levied by each of the municipalities, respectively, amounting to .85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on casualty insurance policies covering property within the corporate limits of such municipalities, respectively.

(b) This section applies to a municipality consisting of a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, and to casualty insurance policies covering property within the boundaries of the consolidated government, regardless of whether the properties are located within one or more separately incorporated areas within the consolidated government, and provided the properties are being provided with police protection services by the consolidated government.

(2) In the case of multiple peril policies with a single premium for both property and casualty coverages in such policies, 30 percent of such premium shall be used as the basis for the .85-percent tax above.

(3) The excise tax shall be payable annually March 1 of each year after the passing of an ordinance assessing and imposing the tax herein authorized. Installments of taxes shall be paid according to the provisions of s. 624.5092(2)(a), (b), and (c).

History.—s. 5, ch. 28230, 1953; s. 2, ch. 61-119; s. 1, ch. 63-196; ss. 13, 35, ch. 69-106; s. 7, ch. 86-42; s. 24, ch. 87-99; s. 15, ch. 88-206; s. 11, ch. 89-167; s. 944, ch. 95-147; s. 48, ch. 99-1; s. 164, ch. 2003-261; s. 2, ch. 2014-28.

185.085 Determination of local premium tax situs.—

(1)(a) Any insurance company that is obligated to report and remit the excise tax on casualty insurance premiums imposed under s. 185.08 shall be held harmless from any liability, including, but not limited to, liability for taxes, interest, or penalties that would otherwise be due solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction if the insurance company exercises due diligence in applying an electronic database provided by the Department of Revenue under subsection (2). Insurance companies that do not use the electronic database provided by the Department of Revenue or that do not exercise due diligence in applying the electronic database for tax years on or after January 1, 2006, are subject to a 0.5 percent penalty on the portion of the premium pertaining to any insured risk that is improperly assigned, whether assigned to an improper local taxing jurisdiction, not assigned to a local taxing jurisdiction when it should be assigned to a local taxing jurisdiction, or assigned to a local taxing jurisdiction when it should not be assigned to a local taxing jurisdiction.

(b) Any insurance company that is obligated to report and remit the excise tax on commercial casualty insurance premiums imposed under s. 185.08 and is unable, after due diligence, to assign an insured property to a specific local taxing jurisdiction for purposes of complying with paragraph (a) shall remit the excise tax on commercial casualty insurance premiums using a methodology of apportionment in a manner consistent with the remittance for the 2004 calendar year. An insurance company which makes two contacts with the agent responsible for a commercial casualty insurance application for the purpose of verifying information on the application necessary for the assignment to the appropriate taxing jurisdiction shall be considered to have exercised due diligence. Any insurance company which complies with the provisions of this paragraph shall not be subject to the penalty provided in paragraph (a).

(2)(a) The Department of Revenue shall, subject to legislative appropriation, create as soon as practical and feasible, and thereafter shall maintain, an electronic database that conforms to any format approved by the American National Standards Institute's Accredited Standards Committee X12 and that designates for each street address and address range in the state, including any multiple postal street addresses applicable to one street location, the local taxing jurisdiction in which the street address and address range is located, and the appropriate code for each such

participating local taxing jurisdiction, identified by one nationwide standard numeric code. The nationwide standard numeric code must contain the same number of numeric digits, and each digit or combination of digits must refer to the same level of taxing jurisdiction throughout the United States and must be in a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission. Each address or address range must be provided in standard postal format, including the street number, street number range, street name, and zip code. Each year after the creation of the initial database, the Department of Revenue shall annually create and maintain a database for the current tax year. Each annual database must be calendar-year specific.

(b)1. Each participating local taxing jurisdiction shall furnish to the Department of Revenue all information needed to create the electronic database as soon as practical and feasible. The information furnished to the Department of Revenue must specify an effective date.

2. Each participating local taxing jurisdiction shall furnish to the Department of Revenue all information needed to create and update the current year's database, including changes in annexations, incorporations, and reorganizations and any other changes in jurisdictional boundaries, as well as changes in eligibility to participate in the excise tax imposed under this chapter. The information must specify an effective date and must be furnished to the Department of Revenue by July 1 of the current year.

3. The Department of Revenue shall create and update the current year's database in accordance with the information furnished by participating local taxing jurisdictions under subparagraph 1. or subparagraph 2., as appropriate. To the extent practicable, the Department of Revenue shall post each new annual database on a website by September 1 of each year. Each participating local taxing jurisdiction shall have access to this website and, within 30 days thereafter, shall provide any corrections to the Department of Revenue. The Department of Revenue shall finalize the current year's database and post it on a website by November 1 of the current year. If a dispute in jurisdictional boundaries cannot be resolved so that changes in boundaries may be included, as appropriate, in the database by November 1, the changes may not be retroactively included in the current year's database and the boundaries will remain the same as in the previous year's database. The finalized database must be used in assigning policies and premiums to the proper local taxing jurisdiction for the insurance premium tax return due on the following March 1 for the tax year 2005. For subsequent tax years, the finalized database must be used in assigning policies and premiums to the proper local taxing jurisdiction for the insurance premium tax return due for the tax year beginning on or after the January 1 following the website posting of the database. Information contained in the electronic database is conclusive for purposes of this chapter. The electronic database is not an order, a rule, or a policy of general applicability.

4. Each annual database must identify the additions, deletions, and other changes to the preceding version of the database.

(3)(a) As used in this section, the term "due diligence" means the care and attention that is expected from and is ordinarily exercised by a reasonable and prudent person under the circumstances.

(b) Notwithstanding any law to the contrary, an insurance company is exercising due diligence if the insurance company complies with the provisions of paragraph (1)(b) or if the insurance company assigns an insured's premium to local taxing jurisdictions in accordance with the Department of Revenue's annual database and with respect to such database:

1. Expends reasonable resources to accurately and reliably implement such method;

2. Maintains adequate internal controls to correctly include in its database of policyholders the location of the property insured, in the proper address format, so that matching with the department's database is accurate; and

3. Corrects errors in the assignment of addresses to local taxing jurisdictions within 120 days after the insurance company discovers the errors.

(4) There is annually appropriated from the moneys collected under this chapter and deposited in the Police and Firefighter's Premium Tax Trust Fund an amount sufficient to pay the expenses of the Department of Revenue in administering this section, but not to exceed $50,000 annually, adjusted annually by the lesser of a 5- percent increase or the percentage of growth in the total collections.

(5) The Department of Revenue shall adopt rules necessary to administer this section, including rules establishing procedures and forms.

(6) Any insurer that is obligated to collect and remit the tax on casualty insurance imposed under s. 185.08 shall be held harmless from any liability, including, but not limited to, liability for taxes, interest, or penalties that would otherwise be due solely as a result of an assignment of an insured risk to an incorrect local taxing jurisdiction, based on the collection and remission of the tax accruing before January 1, 2005, if the insurer collects and reports this tax consistent with filings for periods before January 1, 2005. Further, any insurer that is obligated to collect and remit the tax on casualty insurance imposed under this section is not subject to an examination under s. 624.316 or s. 624.3161 which would occur solely as a result of an assignment of an insured risk to an incorrect local taxing jurisdiction, based on the collection and remission of such tax accruing before January 1, 2005.

History.—s. 4, ch. 2004-21; s. 2, ch. 2009-20.

185.09 Report of premiums paid; date tax payable.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, whenever any municipality passes an ordinance establishing a chapter plan or local law plan and assessing and imposing the tax authorized in s. 185.08, a certified copy of such ordinance shall be deposited with the division; and thereafter every insurance company, corporation, or other insurer carrying on the business of casualty insuring, on or before the succeeding March 1 after date of the passage of the ordinance, shall report fully in writing to the division and the Department of Revenue a just and true account of all premiums received by such insurer for casualty insurance policies covering or insuring any property located within the corporate limits of such municipality during the period of time elapsing between the date of the passage of the ordinance and the end of the calendar year. The aforesaid insurer shall annually thereafter, on March 1, file with the Department of Revenue a similar report covering the preceding year's premium receipts. Every such insurer shall, at the time of making such report, pay to the Department of Revenue the amount of the tax heretofore mentioned. Every insurer engaged in carrying on a general casualty insurance business in the state shall keep accurate books of account of all such business done by it within the limits of such incorporated municipality in such a manner as to be able to comply with the provisions of this chapter. Based on the insurers' reports of premium receipts, the division shall prepare a consolidated premium report and shall furnish to any municipality requesting the same a copy of the relevant section of that report.

History.—s. 6, ch. 28230, 1953; s. 2, ch. 61-85; ss. 12, 13, 35, ch. 69-106; s. 42, ch. 93-193; s. 49, ch. 99-1; s. 7, ch. 2000-355.

185.10 Department of Revenue and Division of Retirement to keep accounts of deposits; disbursements.—For any municipality having a chapter plan or local law plan under this chapter:

(1) The Department of Revenue shall keep a separate account of all moneys collected for each municipality under the provisions of this chapter. All moneys so collected must be transferred to the Police and Firefighters' Premium Tax Trust Fund and shall be separately accounted for by the division. The moneys budgeted as necessary to pay the expenses of the division for the daily oversight and monitoring of the police officers' retirement plans under this chapter and for the oversight and actuarial reviews conducted under part VII of chapter 112 are annually appropriated from the interest and investment income earned on the moneys collected for each municipality or special fire control district and deposited in the Police and Firefighters' Premium Tax Trust Fund. Interest and investment income remaining thereafter in the trust fund which is unexpended and otherwise unallocated by law shall revert to the General Revenue Fund on June 30 of each year.

(2) The Chief Financial Officer shall, on or before July 1 of each year, and at such other times as authorized by the division, draw his or her warrants on the full net amount of money then on deposit pursuant to this chapter in the Police and Firefighters' Premium Tax Trust Fund, specifying the municipalities to which the moneys must be paid and the net amount collected for and to be paid to each municipality, respectively. The sum payable to each municipality is appropriated annually out of the Police and Firefighters' Premium Tax Trust Fund. The warrants of the Chief Financial Officer shall be payable to the respective municipalities entitled to receive them and shall be remitted annually by the division to the respective municipalities. In lieu thereof, the municipality may provide authorization to the division for the direct payment of the premium tax to the board of trustees. In order for a municipality and its retirement fund to participate in the distribution of premium tax moneys under this chapter, all the provisions shall be complied with annually, including state acceptance pursuant to part VII of chapter 112.

History.—s. 7, ch. 28230, 1953; s. 2, ch. 29734, 1955; s. 2, ch. 61-119; ss. 13, 35, ch. 69-106; s. 1, ch. 74-297; s. 4, ch. 85-61; s. 8, ch. 86-42; s. 43, ch. 93-193; s. 13, ch. 94-259; s. 1458, ch. 95-147; s. 6, ch. 95-250; s. 50, ch. 99-1; s. 165, ch. 2003-261.

[1]**185.105 Police and Firefighters' Premium Tax Trust Fund.**—The Police and Firefighters' Premium Tax Trust Fund is created, to be administered by the Division of Retirement of the Department of Management Services. Funds credited to the trust fund, as provided in chapter 95-250, Laws of Florida, or similar legislation, shall be expended for the purposes set forth in that legislation.

History.—s. 1, ch. 95-249.

[1]**Note.**—Also published at s. 175.1215.

185.11 Funds received by municipalities, deposit in retirement trust fund.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, all state and other funds received by any municipality under the provisions of this chapter shall be deposited by the municipality immediately, and under no circumstances more than 5 days after receipt, with the board of trustees. In lieu thereof, the municipality may provide authorization to the division for the direct payment of the premium tax to the board of trustees. The board shall deposit such moneys in the Municipal Police Officers' Retirement Trust Fund immediately, and under no circumstances more than 5 days after receipt. Employee contributions, however, which are withheld by the employer on behalf of an employee member shall be deposited immediately after each pay period with the board of trustees of the municipal police officers' retirement trust fund. Employer contributions shall be deposited at least quarterly.

History.—s. 8, ch. 28230, 1953; s. 2, ch. 61-119; s. 9, ch. 86-42; s. 51, ch. 99-1.

185.12 Payment of excise tax credit on similar state excise or license tax.—The tax herein authorized shall in nowise be additional to the similar state excise or license tax imposed by part IV, chapter 624, but the payor of the tax hereby authorized shall receive credit therefor on his or her state excise or license tax and the balance of said state excise or license tax shall be paid to the Department of Revenue as provided by law.

History.—s. 9, ch. 28230, 1953; s. 3, ch. 61-85; ss. 13, 35, ch. 69-106; s. 10, ch. 86-42; s. 945, ch. 95-147; s. 52, ch. 99-1.

185.13 Failure of insurer to comply with chapter; penalty.—If any insurance company, corporation or other insurer fails to comply with the provisions of this chapter, on or before March 1 in each year as herein provided, the certificate of authority issued to said insurance company, corporation or other insurer to transact business in this state may be canceled and revoked by the Office of Insurance Regulation of the Financial Services Commission, and it is unlawful for any such insurance company, corporation or other insurer to transact any business thereafter in this state unless such insurance company, corporation or other insurer shall be granted a new certificate of authority to transact business in this state, in compliance with provisions of law authorizing such certificate of authority to be issued. The division shall be responsible for notifying the Office of Insurance Regulation regarding any such failure to comply.

History.—s. 10, ch. 28230, 1953; ss. 13, 35, ch. 69-106; s. 53, ch. 99-1; s. 166, ch. 2003-261.

185.16 Requirements for retirement.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, any police officer who completes 10 or more years of creditable service as a police officer and attains age 55, or completes 25 years of creditable service as a police officer and attains age 52, and for such period has been a member of the retirement fund is eligible for normal retirement benefits. Normal retirement under the plan is retirement from the service of the city on or after the normal retirement date. In such event, for chapter plans and local law plans, payment of retirement income will be governed by the following provisions of this section:

(1) The normal retirement date of each police officer will be the first day of the month coincident with or next following the date on which the police officer has completed 10 or more years of creditable service and attained age 55 or completed 25 years of creditable service and attained age 52.

(2)(a) The amount of the monthly retirement income payable to a police officer who retires on or after his or her normal retirement date shall be an amount equal to the number of the police officer's years of credited service multiplied by 2.75 percent of his or her average final compensation.

(b) Effective July 1, 2015, a plan that is in compliance with this chapter except that the plan provides a benefit that is less than 2.75 percent of the average final compensation of a police officer for all years of credited service or provides an effective benefit that is less than 2.75 percent as a result of a maximum benefit limitation:

1. Must maintain, at a minimum, the percentage amount or maximum benefit limitation in effect on July 1, 2015, and is not required to increase the benefit to 2.75 percent of the average final compensation of a police officer for all years of credited service; or

2. If the plan changes the percentage amount or maximum benefit limitation to 2.75 percent or more of the average final compensation of a police officer for all years of credited service, the plan may not thereafter decrease the percentage amount or the maximum benefit limitation to less than 2.75 percent of the average final compensation of a police officer for all years of credited service.

(3) The monthly retirement income payable in the event of normal retirement will be payable on the first day of each month. The first payment will be made on the police officer's normal retirement date, or on the first day of the month coincident with or next following the police officer's actual retirement, if later, and the last payment will be the payment due next preceding the police officer's death; except that, in the event the police officer dies after retirement but before receiving retirement benefits for a period of 10 years, the same monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the police officer for the balance of such 10-year period, or, if no beneficiary is designated, to the estate of the police officer, as provided in s. 185.162. If a police officer continues in the service of the city beyond his or her normal retirement date and dies prior to the date of actual retirement, without an option made pursuant to s. 185.161 being in effect, monthly retirement income payments will be made for a period of 10 years to a beneficiary (or beneficiaries) designated by the police officer as if the police officer had retired on the date on which death occurred, or, if no beneficiary is designated, to the estate of the police officer, as provided in s. 185.162.

(4) Early retirement under the plan is retirement from the service of the city, with the consent of the city, as of the first day of any calendar month which is prior to the police officer's normal retirement date but subsequent to the date as of which the police officer has both attained the age of 50 years and completed 10 years of contributing service. In the event of early retirement, payment of retirement income will be governed as follows:

(a) The early retirement date shall be the first day of the calendar month coincident with or immediately following the date a police officer retires from the service of the city under the provisions of this section prior to his or her normal retirement date.

(b) The monthly amount of retirement income payable to a police officer who retires prior to his or her normal retirement date under the provisions of this section shall be an amount computed as described in subsection (2), taking into account his or her credited service to the date of actual retirement and his or her final monthly compensation as of such date, such amount of retirement income to be actuarially reduced to take into account the police officer's younger age and the earlier commencement of retirement income payments. In no event shall the early retirement reduction exceed 3 percent for each year by which the member's age at retirement preceded the member's normal retirement age, as provided in subsection (1).

(c) The retirement income payable in the event of early retirement will be payable on the first day of each month. The first payment will be made on the police officer's early retirement date and the last payment will be the payment due next preceding the retired police officer's death; except that, in the event the police officer dies before receiving retirement benefits for a period of 10 years, the same monthly benefit will be paid to the beneficiary designated by the police officer for the balance of such 10-year period, or, if no designated beneficiary is surviving, the same monthly benefit for the balance of such 10-year period shall be payable as provided in s. 185.162.

History.—s. 14, ch. 28230, 1953; s. 4, ch. 29825, 1955; s. 6, ch. 59-320; s. 5, ch. 61-85; s. 2, ch. 63-196; s. 1, ch. 70-128; s. 12, ch. 86-42; s. 946, ch. 95-147; s. 56, ch. 99-1; s. 13, ch. 2015-39.

185.161 Optional forms of retirement income.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1)(a) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified in s. 185.16, a police officer, upon written request to the board of trustees and subject to the approval of the

board of trustees, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

1. A retirement income of larger monthly amount, payable to the police officer for his or her lifetime only.

2. A retirement income of a modified monthly amount, payable to the police officer during the joint lifetime of the police officer and a joint annuitant designated by the police officer, and following the death of either of them, 100 percent, 75 percent, 66⅔ percent, or 50 percent of such monthly amount payable to the survivor for the lifetime of the survivor.

3. Such other amount and form of retirement payments or benefit as, in the opinion of the board of trustees, will best meet the circumstances of the retiring police officer.

(b) The police officer upon electing any option of this section must designate the joint annuitant or beneficiary to receive the benefit, if any, payable under the plan in the event of the police officer's death, and may change such designation but any such change shall be deemed a new election and is subject to approval by the pension committee. Such designation must name a joint annuitant or one or more primary beneficiaries where applicable. If a police officer has elected an option with a joint annuitant or beneficiary and his or her retirement income benefits have commenced, he or she may change the designated joint annuitant or beneficiary but only if the board of trustees consents to such change and if the joint annuitant last designated by the police officer is alive when he or she files with the board of trustees a request for such change. The consent of a police officer's joint annuitant or beneficiary to any such change is not required. The board of trustees may request evidence of the good health of the joint annuitant being removed, and the amount of the retirement income payable to the police officer upon the designation of a new joint annuitant shall be actuarially redetermined taking into account the ages and gender of the former joint annuitant, the new joint annuitant, and the police officer. Each designation must be made in writing on a form prepared by the board of trustees and filed with the board of trustees. If no designated beneficiary survives the police officer, such benefits as are payable in the event of the death of the police officer subsequent to his or her retirement shall be paid as provided in s. 185.162.

(c) Notwithstanding paragraph (b), a retired police officer may change his or her designation of joint annuitant or beneficiary up to two times as provided in s. 185.341 without the approval of the board of trustees or the current joint annuitant or beneficiary. The retiree need not provide proof of the good health of the joint annuitant or beneficiary being removed, and the joint annuitant or beneficiary being removed need not be living.

(2) Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(a) If a police officer dies prior to his or her normal retirement date or early retirement date, whichever first occurs, no benefit will be payable under the option to any person, but the benefits, if any, will be determined under s. 185.21.

(b) If the designated beneficiary or joint annuitant dies before the police officer's retirement under the plan, the option elected is canceled automatically and a retirement income of the normal form and amount is payable to the police officer upon his or her retirement as if the election had not been made, unless a new election is made in accordance with this section or a new beneficiary is designated by the police officer before his or her retirement and within 90 days after the death of the beneficiary.

(c) If both the retired police officer and the designated beneficiary (or beneficiaries) die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subparagraph (1)(a)3., the board of trustees may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with s. 185.162.

(d) If a police officer continues beyond his or her normal retirement date pursuant to the provisions of s. 185.16(1) and dies prior to actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the police officer in the amount or amounts computed as if the police officer had retired under the option on the date on which death occurred.

(3) No police officer may make any change in his or her retirement option after the date of cashing or depositing his or her first retirement check.

History.—s. 7, ch. 59-320; s. 13, ch. 86-42; s. 947, ch. 95-147; s. 57, ch. 99-1; s. 12, ch. 2009-97.

185.162 Beneficiaries.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) Each police officer may, on a form, provided for that purpose, signed and filed with the board of trustees, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of the police officer's death, and each designation may be revoked by such police officer by signing and filing with the board of trustees a new designation or beneficiary form.

(2) If no beneficiary is named in the manner provided by subsection (1), or if no beneficiary designated by the member survives him or her, the death benefit, if any, which may be payable under the plan with respect to such deceased police officer shall be paid by the board of trustees to the estate of such deceased police officer, provided that in any of such cases the board of trustees, in its discretion, may direct that the commuted value of the remaining monthly income payments be paid in a lump sum. Any payment made to any person pursuant to this subsection shall operate as a complete discharge of all obligations under the plan with regard to such deceased police officer and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons ever interested hereunder.

(3) Notwithstanding any other provision of law to the contrary, the surviving spouse of any pension participant member killed in the line of duty shall not lose survivor retirement benefits if the spouse remarries. The surviving spouse of such deceased member whose benefit terminated because of remarriage shall have the benefit reinstated as of July 1, 1994, at an amount that would have been payable had such benefit not been terminated.

History.—s. 7, ch. 59-320; s. 5, ch. 94-171; s. 1459, ch. 95-147; s. 58, ch. 99-1.

185.18 Disability retirement.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) A police officer having 10 or more years of credited service, or a police officer who becomes totally and permanently disabled in the line of duty, regardless of length of service, may retire from the service of the city under the plan if he or she becomes totally and permanently disabled as defined in subsection (2) by reason of any cause other than a cause set out in subsection (3) on or after the effective date of the plan. Such retirement shall herein be referred to as disability retirement.

(2) A police officer will be considered totally disabled if, in the opinion of the board of trustees, he or she is wholly prevented from rendering useful and efficient service as a police officer; and a police officer will be considered permanently disabled if, in the opinion of the board of trustees, such police officer is likely to remain so disabled continuously and permanently from a cause other than as specified in subsection (3).

(3) A police officer will not be entitled to receive any disability retirement income if the disability is a result of:

(a) Excessive and habitual use by the police officer of drugs, intoxicants, or narcotics;

(b) Injury or disease sustained by the police officer while willfully and illegally participating in fights, riots, civil insurrections or while committing a crime;

(c) Injury or disease sustained by the police officer while serving in any armed forces;

(d) Injury or disease sustained by the police officer after employment has terminated;

(e) Injury or disease sustained by the police officer while working for anyone other than the city and arising out of such employment.

(4) No police officer shall be permitted to retire under the provisions of this section until examined by a duly qualified physician or surgeon, to be selected by the board of trustees for that purpose, and is found to be disabled in the degree and in the manner specified in this section. Any police officer retiring under this section may be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.

(5) The benefit payable to a police officer who retires from the service of the city with a total and permanent disability as a result of a disability is the monthly income payable for 10 years certain and life for which, if the police officer's disability occurred in the line of duty, his or her monthly benefit shall be the accrued retirement benefit, but shall not be less than 42 percent of his or her average monthly compensation as of the police officer's disability retirement date. If after 10 years of service the disability is other than in the line of duty, the police officer's monthly

benefit shall be the accrued normal retirement benefit, but shall not be less than 25 percent of his or her average monthly compensation as of the police officer's disability retirement date.

(6) The monthly retirement income to which a police officer is entitled in the event of his or her disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be, if the police officer recovers from the disability, the payment due next preceding the date of such recovery or, if the police officer dies without recovering from his or her disability, the payment due next preceding death or the 120th monthly payment, whichever is later. In lieu of the benefit payment as provided in this subsection, a police officer may select an optional form as provided in s. 185.161. Any monthly retirement income payments due after the death of a disabled police officer shall be paid to the police officer's designated beneficiary (or beneficiaries) as provided in ss. 185.162 and 185.21.

(7) If the board of trustees finds that a police officer who is receiving a disability retirement income is no longer disabled, as provided herein, the board of trustees shall direct that the disability retirement income be discontinued. Recovery from disability as used herein shall mean the ability of the police officer to render useful and efficient service as a police officer.

(8) If the police officer recovers from disability and reenters the service of the city as a police officer, his or her service will be deemed to have been continuous, but the period beginning with the first month for which the police officer received a disability retirement income payment and ending with the date he or she reentered the service of the city may not be considered as credited service for the purposes of the plan.

History.—s. 16, ch. 28230, 1953; s. 6, ch. 59-320; s. 6, ch. 61-85; s. 2, ch. 61-119; s. 2, ch. 70-128; s. 14, ch. 86-42; s. 948, ch. 95-147; s. 59, ch. 99-1.

185.185 False, misleading, or fraudulent statements made to obtain public retirement benefits prohibited; penalty.—

(1) It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit available under a retirement plan receiving funding under this chapter.

(2)(a) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) In addition to any applicable criminal penalty, upon conviction for a violation described in subsection (1), a participant or beneficiary of a pension plan receiving funding under this chapter may, in the discretion of the board of trustees, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under this chapter. For purposes of this paragraph, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

History.—s. 60, ch. 99-1.

185.19 Separation from municipal service; refunds.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) If any police officer leaves the service of the municipality before accumulating aggregate time of 10 years toward retirement and before being eligible to retire under the provisions of this chapter, such police officer shall be entitled to a refund of all of his or her contributions made to the municipal police officers' retirement trust fund without interest, less any benefits paid to him or her.

(2) If any police officer who has been in the service of the municipality for at least 10 years elects to leave his or her accrued contributions, if contributions are required, in the municipal police officers' retirement trust fund, such police officer upon attaining age 50 years or more may retire at the actuarial equivalent of the amount of such retirement income otherwise payable to him or her, as provided in s. 185.16(4), or, upon attaining age 55 years, may retire as provided in s. 185.16(2).

History.—s. 17, ch. 28230, 1953; s. 6, ch. 59-320; s. 7, ch. 61-85; s. 2, ch. 61-119; s. 949, ch. 95-147; s. 61, ch. 99-1.

185.191 Lump-sum payment of small retirement income.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, notwithstanding any provision of the plan to the contrary, if the monthly retirement income payable to any person entitled to benefits hereunder is less than $100 or if the single-sum value of the accrued retirement income is less than $2,500 as of the date of retirement or termination of service, whichever is applicable, the board of trustees, in the exercise of its discretion, may specify that the actuarial equivalent of such retirement income be paid in a lump sum.

History.—s. 7, ch. 59-320; s. 62, ch. 99-1.

185.21 Death prior to retirement; refunds of contributions or payment of death benefits.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) If a police officer dies before being eligible to retire, the heirs, legatees, beneficiaries, or personal representatives of such deceased police officer shall be entitled to a refund of 100 percent, without interest, of the contributions made to the municipal police officers' retirement trust fund by such deceased police officer or, in the event an annuity or life insurance contract has been purchased by the board on such police officer, then to the death benefits available under such life insurance or annuity contract, subject to the limitations on such death benefits set forth in s. 185.061 whichever amount is greater.

(2) If a police officer having at least 10 years of credited service dies prior to retirement, his or her beneficiary is entitled to the benefits otherwise payable to the police officer at early or normal retirement age.

In the event that a death benefit paid by a life insurance company exceeds the limit set forth in s. 185.061(6), the excess of the death benefit over the limit shall be paid to the municipal police officers' retirement trust fund. However, death benefits as provided pursuant to s. 112.19 or any other state or federal law shall not be included in the calculation of death or retirement benefits provided under this chapter.

History.—s. 19, ch. 28230, 1953; s. 6, ch. 29825, 1955; s. 3, ch. 57-118; s. 6, ch. 59-320; s. 2, ch. 61-119; s. 15, ch. 86-42; s. 6, ch. 90-138; s. 950, ch. 95-147; s. 63, ch. 99-1.

185.221 Annual report to Division of Retirement; actuarial valuations.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the board of trustees for every chapter plan and local law plan shall submit the following reports to the division:

(1) With respect to chapter plans:

(a) Each year by February 1, the chair or secretary of each municipal police officers' retirement trust fund operating a chapter plan shall file a report with the division which contains:

1. A statement of whether in fact the municipality is within the provisions of s. 185.03.

2. An independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in assets, for the most recent plan year, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning and end of the year.

3. A statistical exhibit showing the total number of police officers on the force of the municipality, the number included in the retirement plan and the number ineligible classified according to the reasons for their being ineligible, and the number of disabled and retired police officers and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

4. A statement of the amount the municipality, or other income source, has contributed to the retirement plan for the most recent plan year and the amount the municipality will contribute to the retirement plan for the current plan year.

5. If any benefits are insured with a commercial insurance company, the report shall include a statement of the relationship of the insured benefits to the benefits provided by this chapter. This report shall also contain information about the insurer, basis of premium rates and mortality table, interest rate and method used in valuing retirement benefits.

(b) In addition to annual reports provided under paragraph (a), by February 1 of each triennial year, an actuarial valuation of the chapter plan must be made by the division at least once every 3 years, as provided in s. 112.63, commencing 3 years from the last actuarial valuation of the plan or system for existing plans, or commencing 3 years from the issuance of the initial actuarial impact statement submitted under s. 112.63 for newly created plans. To that end, the chair of the board of trustees for each municipal police officers' retirement trust fund operating under a chapter plan shall report to the division such data as the division needs to complete an actuarial valuation of each fund. The forms for each municipality shall be supplied by the division. The expense of the actuarial valuation shall be borne by the municipal police officers' retirement trust fund established by s. 185.10. The requirements of this section are supplemental to the actuarial valuations necessary to comply with s. 218.39.

(2) With respect to local law plans:

(a) Each year, on or before March 15, the trustees of the retirement plan shall submit the following information to the division in order for the retirement plan of such municipality to receive a share of the state funds for the then-current calendar year:

1. A certified copy of each and every instrument constituting or evidencing the plan. This includes the formal plan, including all amendments, the trust agreement, copies of all insurance contracts, and formal announcement materials.
2. An independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in assets, for the most recent plan year, showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year.
3. A certified statement listing the investments of the plan and a description of the methods used in valuing the investments.
4. A statistical exhibit showing the total number of police officers, the number included in the plan, and the number ineligible classified according to the reasons for their being ineligible, and the number of disabled and retired police officers and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.
5. A certified statement describing the methods, factors, and actuarial assumptions used in determining the cost.
6. A certified statement by an enrolled actuary showing the results of the latest actuarial valuation of the plan and a copy of the detailed worksheets showing the computations used in arriving at the results.
7. A statement of the amount the municipality, or other income source, has contributed toward the plan for the most recent plan year and will contribute toward the plan for the current plan year.

When any of the items required hereunder is identical to the corresponding item submitted for a previous year, it is not necessary for the trustees to submit duplicate information if they make reference to the item in the previous year's report.

(b) In addition to annual reports provided under paragraph (a), an actuarial valuation of the retirement plan must be made at least once every 3 years, as provided in s. 112.63, commencing 3 years from the last actuarial valuation of the plan or system for existing plans, or commencing 3 years from issuance of the initial actuarial impact statement submitted under s. 112.63 for newly created plans. Such valuation shall be prepared by an enrolled actuary, subject to the following conditions:

1. The assets shall be valued as provided in s. 112.625(7).
2. The cost of the actuarial valuation must be paid by the individual police officer's retirement trust fund or by the sponsoring municipality.
3. A report of the valuation, including actuarial assumptions and type and basis of funding, shall be made to the division within 3 months after the date of the valuation. If any benefits are insured with a commercial insurance company, the report must include a statement of the relationship of the retirement plan benefits to the insured benefits, the name of the insurer, the basis of premium rates, and the mortality table, interest rate, and method used in valuing the retirement benefits.

History.—s. 7, ch. 59-320; s. 2, ch. 61-119; ss. 13, 35, ch. 69-106; s. 16, ch. 86-42; s. 44, ch. 93-193; s. 951, ch. 95-147; s. 8, ch. 96-324; s. 64, ch. 99-1; s. 43, ch. 2001-266; s. 16, ch. 2004-305.

185.23 Duties of Division of Retirement; rulemaking authority; investments by State Board of Administration.—

(1) The division shall be responsible for the daily oversight and monitoring for actuarial soundness of the municipal police officers' retirement plans, whether chapter or local law plans, established under this chapter, for receiving and holding the premium tax moneys collected under this chapter, and, upon determining compliance with the provisions of this chapter, for disbursing those moneys to the municipal police officers' retirement plans. The funds to pay the expenses for such administration shall be annually appropriated from the interest and investment income earned on moneys deposited in the trust fund.

(2) The State Board of Administration shall invest and reinvest the moneys in the trust fund in accordance with ss. 215.44-215.53. Costs incurred by the board in carrying out the provisions of this section shall be deducted from the interest and investment income accruing to the trust fund.

History.—s. 20, ch. 28230, 1953; ss. 13, 35, ch. 69-106; s. 45, ch. 93-193; s. 7, ch. 95-250; s. 13, ch. 98-200; s. 65, ch. 99-1; s. 30, ch. 2000-151; s. 50, ch. 2012-116.

185.25 Exemption from tax and execution.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the pensions, annuities, or any other benefits accrued or accruing to any person under any municipality, chapter plan, local law municipality, or local law plan under the provisions of this chapter and the accumulated contributions and the cash securities in the funds created under this chapter are exempted from any state, county, or municipal tax of the state and shall not be subject to execution or attachment or to any legal process whatsoever and shall be unassignable.

History.—s. 21, ch. 28230, 1953; s. 66, ch. 99-1.

185.30 Depository for retirement fund.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, all funds of the municipal police officers' retirement trust fund of any municipality, chapter plan, local law municipality, or local law plan under this chapter may be deposited by the board of trustees with the treasurer of the municipality acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality. However, any funds so deposited with the treasurer of the municipality shall be kept in a separate fund by the municipal treasurer or clearly identified as such funds of the municipal police officers' retirement trust fund. In lieu thereof, the board of trustees shall deposit the funds of the municipal police officers' retirement trust fund in a qualified public depository as defined in s. 280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of chapter 280.

History.—s. 26, ch. 28230, 1953; s. 2, ch. 61-119; s. 19, ch. 86-42; s. 3, ch. 88-185; s. 954, ch. 95-147; s. 69, ch. 99-1.

185.31 Municipalities and boards independent of other municipalities and boards and of each other.—In the enforcement and interpretation of the provisions of this chapter for any municipality, chapter plan, local law municipality, or local law plan under this chapter, each municipality shall be independent of any other municipality, and the board of trustees of the municipal police officers' retirement trust fund of each municipality shall function for the municipality which they are to serve as trustees. Each board of trustees shall be independent of each municipality for which it serves as board of trustees to the extent required to accomplish the intent, requirements, and responsibilities provided for in this chapter.

History.—s. 27, ch. 28230, 1953; s. 2, ch. 61-119; s. 20, ch. 86-42; s. 70, ch. 99-1.

185.34 Disability in line of duty.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, any condition or impairment of health of any and all police officers employed in the state caused by tuberculosis, hypertension, heart disease, or hardening of the arteries, resulting in total or partial disability or death, shall be presumed to be accidental and suffered in line of duty unless the contrary be shown by competent evidence. Any condition or impairment of health caused directly or proximately by exposure, which exposure

occurred in the active performance of duty at some definite time or place without willful negligence on the part of the police officer, resulting in total or partial disability, shall be presumed to be accidental and suffered in the line of duty, provided that such police officer shall have successfully passed a physical examination upon entering such service, which physical examination including electrocardiogram failed to reveal any evidence of such condition, and, further, that such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance. This section shall be applicable to all police officers only with reference to pension and retirement benefits under this chapter.

History.—ss. 1, 2, ch. 57-340; s. 1, ch. 67-580; s. 62, ch. 79-40; s. 21, ch. 86-42; s. 72, ch. 99-1.

185.341 Discrimination in benefit formula prohibited; restrictions regarding designation of joint annuitants.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) No plan shall discriminate in its benefit formula based on color, national origin, sex, or marital status.

(2)(a) If a plan offers a joint annuitant option and the member selects such option, or if a plan specifies that the member's spouse is to receive the benefits that continue to be payable upon the death of the member, then, in both of these cases, after retirement benefits have commenced, a retired member may change the designation of joint annuitant or beneficiary only twice.

(b) Any retired member who desires to change the joint annuitant or beneficiary shall file with the board of trustees of his or her plan a notarized notice of such change either by registered letter or on such form as is provided by the administrator of the plan. Upon receipt of a completed change of joint annuitant form or such other notice, the board of trustees shall adjust the member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit. Nothing herein shall preclude a plan from actuarially adjusting benefits or offering options based upon sex, age, early retirement, or disability.

(3) Eligibility for coverage under the plan must be based upon length of service, or attained age, or both, and benefits must be determined by a nondiscriminatory formula based upon:

(a) Length of service and compensation; or

(b) Length of service.

History.—s. 22, ch. 86-42; s. 955, ch. 95-147; s. 73, ch. 99-1.

185.35 Municipalities that have their own retirement plans for police officers.—In order for a municipality that has its own retirement plan for police officers, or for police officers and firefighters if both are included, to participate in the distribution of the tax fund established under s. 185.08, a local law plan must meet minimum benefits and minimum standards, except as provided in the mutual consent provisions in paragraph (1)(g) with respect to the minimum benefits not met as of October 1, 2012.

(1) If a municipality has a retirement plan for police officers, or for police officers and firefighters if both are included, which, in the opinion of the division, meets minimum benefits and minimum standards, the board of trustees of the retirement plan must place the income from the premium tax in s. 185.08 in such plan for the sole and exclusive use of its police officers, or its police officers and firefighters if both are included, where it shall become an integral part of that plan and be used to fund benefits as provided herein. Effective October 1, 2015, for noncollectively bargained service or upon entering into a collective bargaining agreement on or after July 1, 2015:

(a) The base premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality.

(b) Of the additional premium tax revenues received that are in excess of the amount received for the 2012 calendar year, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality, and 50 percent must be placed in a defined contribution plan component to fund special benefits.

(c) Additional premium tax revenues not described in paragraph (b) must be used to fund benefits that are not included in the minimum benefits. If the additional premium tax revenues subject to this paragraph exceed the full

annual cost of benefits provided through the plan which are in excess of the minimum benefits, any amount in excess of the full annual cost must be used as provided in paragraph (b).

(d) Of any accumulations of additional premium tax revenues which have not been allocated to fund benefits in excess of the minimum benefits, 50 percent of the amount of the accumulations must be used to fund special benefits and 50 percent must be applied to fund any unfunded actuarial liabilities of the plan; provided that any amount of accumulations in excess of the amount required to fund the unfunded actuarial liabilities must be used to fund special benefits.

(e) For a plan created after March 1, 2015, 50 percent of the insurance premium tax revenues must be used to fund defined benefit plan component benefits, with the remainder used to fund defined contribution plan component benefits.

(f) If a plan offers benefits in excess of the minimum benefits, such benefits, excluding supplemental plan benefits in effect as of September 30, 2014, may be reduced if the plan continues to meet minimum benefits and the minimum standards. The amount of insurance premium tax revenues previously used to fund benefits in excess of the minimum benefits before the reduction, excluding the amount of any additional premium tax revenues distributed to a supplemental plan for the 2012 calendar year, must be used as provided in paragraph (b). However, benefits in excess of the minimum benefits may not be reduced if a plan does not meet the minimum percentage amount of 2.75 percent of the average final compensation of a police officer or provides an effective benefit that is less than 2.75 percent as a result of a maximum benefit limitation, as described in s. 185.16(2)(b).

(g) Notwithstanding paragraphs (a)-(f), the use of premium tax revenues, including any accumulations of additional premium tax revenues which have not been allocated to fund benefits in excess of the minimum benefits, may deviate from the provisions of this subsection by mutual consent of the members' collective bargaining representative or, if none, by a majority of the police officer members of the fund, and by consent of the municipality, provided that the plan continues to meet minimum benefits and minimum standards; however, a plan that operates pursuant to this paragraph and does not meet the minimum benefits as of October 1, 2012, may continue to provide the benefits that do not meet the minimum benefits at the same level as was provided as of October 1, 2012, and all other benefit levels must continue to meet the minimum benefits. Such mutually agreed deviation must continue until modified or revoked by subsequent mutual consent of the members' collective bargaining representative or, if none, by a majority of the police officer members of the fund, and the municipality. An existing arrangement for the use of premium tax revenues contained within a special act plan or a plan within a supplemental plan municipality is considered, as of July 1, 2015, to be a deviation for which mutual consent has been granted.

(2) The premium tax provided by this chapter must be used in its entirety to provide retirement benefits to police officers, or to police officers and firefighters if both are included. Local law plans created by special act before May 27, 1939, shall be deemed to comply with this chapter.

(3) A retirement plan or amendment to a retirement plan may not be proposed for adoption unless the proposed plan or amendment contains an actuarial estimate of the costs involved. Such proposed plan or proposed plan change may not be adopted without the approval of the municipality or, where required, the Legislature. Copies of the proposed plan or proposed plan change and the actuarial impact statement of the proposed plan or proposed plan change shall be furnished to the division before the last public hearing on the proposal is held. Such statement must also indicate whether the proposed plan or proposed plan change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter. Notwithstanding any other provision, only those local law plans created by special act of legislation before May 27, 1939, are deemed to meet the minimum benefits and minimum standards only in this chapter.

(4) Notwithstanding any other provision, with respect to any supplemental plan municipality:

(a) Section 185.02(6)(a) does not apply, and a local law plan and a supplemental plan may continue to use their definition of compensation or salary in existence on March 12, 1999.

(b) A local law plan and a supplemental plan must continue to be administered by a board or boards of trustees numbered, constituted, and selected as the board or boards were numbered, constituted, and selected on December 1, 2000.

(5) The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing and copies made available to the participants and to the general public.

(6) In addition to the defined benefit component of the local law plan, each plan sponsor must have a defined contribution plan component within the local law plan by October 1, 2015, for noncollectively bargained service, upon entering into a collective bargaining agreement on or after July 1, 2015, or upon the creation date of a new participating plan. Depending upon the application of subsection (1), a defined contribution component may or may not receive any funding.

(7) Notwithstanding any other provision of this chapter, a municipality that has implemented or proposed changes to a local law plan based on the municipality's reliance on an interpretation of this chapter by the Department of Management Services on or after August 14, 2012, and before March 3, 2015, may continue the implemented changes or continue to implement proposed changes. Such reliance must be evidenced by a written collective bargaining proposal or agreement, or formal correspondence between the municipality and the Department of Management Services which describes the specific changes to the local law plan, with the initial proposal, agreement, or correspondence from the municipality dated before March 3, 2015. Changes to the local law plan which are otherwise contrary to minimum benefits and minimum standards may continue in effect until the earlier of October 1, 2018, or the effective date of a collective bargaining agreement that is contrary to the changes to the local law plan.

History.—s. 7, ch. 59-320; s. 2, ch. 61-119; s. 3, ch. 63-196; ss. 13, 35, ch. 69-106; s. 23, ch. 86-42; s. 47, ch. 93-193; s. 956, ch. 95-147; s. 74, ch. 99-1; s. 7, ch. 2002-66; s. 6, ch. 2004-21; s. 11, ch. 2011-216; s. 14, ch. 2015-39.

185.37 Termination of plan and distribution of fund.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the plan may be terminated by the municipality. Upon termination of the plan by the municipality for any reason, or because of a transfer, merger, or consolidation of governmental units, services, or functions as provided in chapter 121, or upon written notice to the board of trustees by the municipality that contributions under the plan are being permanently discontinued, the rights of all employees to benefits accrued to the date of such termination or discontinuance and the amounts credited to the employees' accounts are nonforfeitable. The fund shall be distributed in accordance with the following procedures:

(1) The board of trustees shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits, after taking into account the expenses of such distribution. The board shall inform the municipality if additional assets are required, in which event the municipality shall continue to financially support the plan until all nonforfeitable benefits have been funded.

(2) The board of trustees shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each police officer entitled to benefits under the plan, as specified in subsection (3).

(3) The board of trustees shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.

(4) If there is asset value remaining after the full distribution specified in subsection (3), and after payment of any expenses incurred with such distribution, such excess shall be returned to the municipality, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the municipality and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the municipality and the state.

(5) The board of trustees shall distribute, in accordance with the manner of distribution determined under subsection (2), the amounts determined under subsection (3).

If, after 24 months after the date the plan terminated or the date the board received written notice that the contributions thereunder were being permanently discontinued, the municipality or the board of trustees of the municipal police officers' retirement trust fund affected has not complied with all the provisions in this section, the Department of Management Services shall effect the termination of the fund in accordance with this section.

History.—s. 8, ch. 61-85; s. 2, ch. 61-119; s. 4, ch. 63-196; s. 24, ch. 86-42; s. 48, ch. 93-193; s. 957, ch. 95-147; s. 76, ch. 99-1; s. 13, ch. 2009-97.

185.38 Transfer to another state retirement system; benefits payable.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) Any police officer who has a vested right to benefits under a pension plan created pursuant to the provisions of this chapter and who elects to participate in another state retirement system may not receive a benefit under the provisions of the latter retirement system for any year's service for which benefits are paid under the provisions of the pension plan created pursuant to this chapter.

(2) When every active participant in any pension plan created pursuant to this chapter elects to transfer to another state retirement system, the pension plan created pursuant to this chapter shall be terminated and the assets distributed in accordance with s. 185.37. If some participants in a pension plan created pursuant to this chapter elect to transfer to another state retirement system and other participants elect to remain in the existing plan created pursuant to this chapter, the plan created pursuant to this chapter shall continue to receive state premium tax moneys until fully funded. If the plan is fully funded at a particular valuation date and not fully funded at a later valuation date, the plan shall resume receipt of state premium tax moneys until the plan is once again determined to be fully funded. "Fully funded" means that the present value of all benefits, accrued and projected, is less than the available assets and the present value of future member contributions and future plan sponsor contributions on an actuarial entry age cost funding basis. Effective May 31, 1998, for plans discussed herein, the plan shall remain in effect until the final benefit payment has been made to the last participant or beneficiary and shall then be terminated in accordance with s. 185.37.

History.—s. 25, ch. 86-42; s. 77, ch. 99-1; s. 8, ch. 2002-66.

185.39 Applicability.—This act applies to all municipalities, chapter plans, local law municipalities, or local law plans presently existing or to be created pursuant to this chapter. Those plans presently existing pursuant to s. 185.35 and not in compliance with the provisions of this act must comply no later than December 31, 1999. However, the plan sponsor of any plan established by special act of the Legislature shall have until July 1, 2000, to comply with the provisions of this act, except as otherwise provided in this act with regard to establishment and election of board members. The provisions of this act shall be construed to establish minimum standards and minimum benefit levels, and nothing contained in this act or in chapter 185 shall operate to reduce presently existing rights or benefits of any police officer, directly, indirectly, or otherwise.

History.—s. 26, ch. 86-42; s. 78, ch. 99-1.

185.50 Retiree health insurance subsidy.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, under the broad grant of home rule powers under the Florida Constitution and chapter 166, municipalities have the authority to establish and administer locally funded health insurance subsidy programs. Pursuant thereto:

(1) PURPOSE.—The purpose of this section is to allow municipalities the option to use premium tax moneys, as provided for under this chapter, to establish and administer health insurance subsidy programs which will provide a monthly subsidy payment to retired members of any municipal police officers' pension trust fund system or plan as provided under this chapter, or to beneficiaries who are spouses or financial dependents entitled to receive benefits under such a plan, in order to assist such retired members or beneficiaries in paying the costs of health insurance.

(2) MUNICIPAL RETIREE HEALTH INSURANCE SUBSIDY TRUST FUNDS; ESTABLISHMENT AND TERMINATION.—

(a) Any municipality having a municipal police officers' pension trust fund system or plan as provided under this chapter may, in its discretion, establish by ordinance a trust fund to be known as the Municipal Police Officers' Retiree Health Insurance Subsidy Trust Fund. This fund may be a separate account established for such purpose in the

existing municipal police officers' pension fund, provided that all funds deposited in such account are segregated from, and not commingled with, pension funds or other public moneys and that the account otherwise conforms to the requirements of subsection (8). The trust fund shall be used to account for all moneys received and disbursed pursuant to this section.

(b) Prior to the second reading of the ordinance before the municipal legislative body, an actuarial valuation must be performed by an enrolled actuary as defined in s. 185.02, and copies of the valuation and the proposed implementing ordinance shall be furnished to the division.

(c) The subsidy program may, at the discretion of the municipal governing body, be permanently discontinued by municipal ordinance at any time, subject to the requirements of any applicable collective bargaining agreement, in the same manner and subject to the same conditions established for plan termination and fund distribution under s. 185.37.

(3) FUNDING.—Trust funds established pursuant to this section shall be funded in the following manner:

(a) By payment to the fund of an amount equivalent to one-half of the net increase over the previous tax year in the premium tax funds provided for in this chapter, said amount to be established in the implementing ordinance.

(b) By no less than one-half of 1 percent of the base salary of each police officer, for so long as the police officer is employed and covered by a pension plan established pursuant to this chapter. The municipality, with approval of the board of trustees, may increase member contributions if needed to fund benefits greater than the minimums established in this section.

(c) By payment by the municipality, on at least a quarterly basis, of whatever sum is determined necessary to maintain the actuarial soundness of the fund in accordance with s. 112.64.

Such contributions and payments shall be submitted to the board of trustees of the police officers' pension trust fund, or the plan trustees in the case of local law plans established under s. 185.35, and deposited in the Municipal Police Officers' Retiree Health Insurance Subsidy Trust Fund, in the same manner and subject to the same time constraints as provided under s. 185.11.

(4) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who has contributed to the Retiree Health Insurance Subsidy Trust Fund and retires under a municipal police officers' pension trust fund system or plan as provided under this chapter, including any local law plan as provided under s. 185.35, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under such a plan, is eligible for health insurance subsidy payments provided under this section. However, the fund, with approval of the board of trustees and the municipality, may provide coverage to retirees and beneficiaries when the retirees have not contributed to the fund as provided in subsection (3). Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the board of trustees of the municipal police officers' pension trust fund.

(5) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—Beginning on the effective date established in the implementing ordinance, each eligible retiree, or beneficiary who is a spouse or financial dependent thereof, shall receive a monthly retiree health insurance subsidy payment equal to the aggregate number of years of service with the municipality, as defined in s. 185.02, completed at the time of retirement multiplied by an amount determined in the implementing ordinance, but no less than $3 for each year of service. Nothing herein shall be construed to restrict the plan sponsor from establishing, in the implementing ordinance, a cap of no less than 30 years upon the number of years' service for which credit will be given toward a health insurance subsidy or a maximum monthly subsidy amount.

(6) PAYMENT OF RETIREE HEALTH INSURANCE SUBSIDY.—Beginning on the effective date established in the implementing ordinance, any monthly retiree health insurance subsidy amount due and payable under this section shall be paid to retired members, or their eligible beneficiaries, by the board of trustees of the police officers' pension trust fund, or the plan trustees in the case of local law plans established under s. 185.35, in the same manner as provided by s. 185.06(1)(c) for drafts upon the pension fund.

(7) INVESTMENT OF THE TRUST FUND.—The trustees of the police officers' pension trust fund, or the plan trustees in the case of local law plans established under s. 185.35, are hereby authorized to invest and reinvest the funds of the Municipal Police Officers' Retiree Health Insurance Subsidy Trust Fund in the same manner and subject to the same conditions as apply hereunder to the investment of municipal police officers' pension funds under s. 185.06.

(8) DEPOSIT OF PENSION FUNDS.—All funds of the health insurance subsidy fund may be deposited by the board of trustees with the treasurer of the municipality, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality. Any funds so deposited shall be segregated by said treasurer in a separate fund, clearly identified as funds of the health insurance subsidy fund. In lieu thereof, the board of trustees shall deposit the funds of the health insurance subsidy fund in a qualified public depository as defined in s. 280.02, which shall conform to and be bound by the provisions of chapter 280 with regard to such funds. In no case shall the funds of the health insurance subsidy fund be deposited in any financial institution, brokerage house trust company, or other entity that is not a public depository as provided by s. 280.02.

(9) SEPARATION FROM SERVICE; REFUNDS.—Any police officer who terminates employment with a municipality having a Municipal Retiree Health Insurance Subsidy Trust Fund system or plan as provided under this section shall be entitled to a refund of all employee contributions he or she made to that trust fund, without interest, regardless of whether he or she has vested for purposes of retirement. Any police officer who has vested for purposes of retirement in the service of the municipality, and has contributed to the Municipal Police Officers' Retiree Health Insurance Subsidy Trust Fund for so long as he or she was eligible to make such contributions, may, in his or her discretion, elect to leave his or her accrued contributions in the fund, whereupon, such police officer shall, upon retiring and commencing to draw retirement benefits, receive a health insurance subsidy based upon his or her aggregate number of years of service with the municipality, as defined in s. 185.02.

(10) ADMINISTRATION OF SYSTEM; ACTUARIAL VALUATIONS; AUDITS; RULES; ADMINISTRATIVE COSTS.—The board of trustees of the police officers' pension trust fund, or the plan trustees in the case of local law plans established under s. 185.35, shall be solely responsible for administering the health insurance subsidy trust fund. Pursuant thereto:

(a) As part of its administrative duties, no less frequently than every 3 years, the board shall have an actuarial valuation of the Municipal Police Officers' Retiree Health Insurance Subsidy Trust Fund prepared as provided in s. 112.63 by an enrolled actuary, covering the same reporting period or plan year used for the municipal police officers' pension plan, and shall submit a report of the valuation, including actuarial assumptions and type and basis of funding, to the division.

(b) By February 1 of each year, the trustees shall file a report with the division, containing an independent audit by a certified public accountant if the fund has $250,000 or more in assets, or a certified statement of accounting if the fund has less than $250,000 in assets, for the most recent plan year, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning of and end of the year.

(c) The trustees may adopt such rules and regulations as are necessary for the effective and efficient administration of this section.

(d) At the discretion of the plan sponsor, the cost of administration may be appropriated from the trust fund or paid directly by the plan sponsor.

(11) BENEFITS.—Subsidy payments shall be payable under the municipal police officers' retiree health insurance subsidy program only to participants in the program or their beneficiaries. Such subsidy payments shall not be subject to assignment, execution, or attachment or to any legal process whatsoever, and shall be in addition to any other benefits to which eligible recipients are entitled under any workers' compensation law, pension law, collective bargaining agreement, municipal or county ordinance, or any other state or federal statute.

(12) DISTRIBUTION OF PREMIUM TAXES; COMPLIANCE REQUIRED.—Premium tax dollars for which spending authority is granted under this section shall be distributed from the Police and Firefighters' Premium Tax Trust Fund and remitted annually to municipalities in the same manner as provided under this chapter for police

officers' pension funds. Once a health insurance subsidy plan has been implemented by a municipality under this section, in order for the municipality to participate in the distribution of premium tax dollars authorized under this section, all provisions of this section, including state acceptance pursuant to part VII of chapter 112, shall be complied with, and said premium tax dollars may be withheld for noncompliance.

History.—s. 2, ch. 92-51; s. 49, ch. 93-193; s. 14, ch. 94-259; s. 1460, ch. 95-147; s. 8, ch. 95-250; s. 80, ch. 99-1.

185.60 Optional participation.— A municipality may revoke its participation under this chapter by rescinding the legislative act, or ordinance which assesses and imposes taxes authorized in s. 185.08, and by furnishing a certified copy of such legislative act, or ordinance to the division. Thereafter, the municipality shall be prohibited from participating under this chapter, and shall not be eligible for future premium tax moneys. Premium tax moneys previously received shall continue to be used for the sole and exclusive benefit of police officers, or police officers and firefighters where included, and no amendment, legislative act, or ordinance shall be adopted which shall have the effect of reducing the then-vested accrued benefits of the police officers, retirees, or their beneficiaries. The municipality shall continue to furnish an annual report to the division as provided in s. 185.221. If the municipality subsequently terminates the defined benefit plan, they shall do so in compliance with the provisions of s. 185.37.

History.—s. 82, ch. 99-1.

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The Florida Senate

2017 Florida Statutes

Title XIX PUBLIC BUSINESS	**Chapter 286** **PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS**

CHAPTER 286
PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS

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286.001 Reports statutorily required; filing, maintenance, retrieval, and provision of copies.—

(1) Unless otherwise specifically provided by law, any agency or officer of the executive, legislative, or judicial branches of state government, the State Board of Education, the Board of Governors of the State University System, or the Public Service Commission required or authorized by law to make reports regularly or periodically shall fulfill such requirement by filing an abstract of the report with the statutorily or administratively designated recipients of the report and an abstract and one copy of the report with the Division of Library and Information Services of the Department of State, unless the head of the reporting entity makes a determination that the additional cost of providing the entire report to the statutorily or administratively designated recipients is justified. A one-page summary justifying the determination shall be submitted to the chairs of the governmental operations committees of both houses of the Legislature. The abstract of the contents of such report shall be no more than one-half page in length. The actual report shall be retained by the reporting agency or officer, and copies of the report shall be provided to interested parties and the statutorily or administratively designated recipients of the report upon request.

(2) With respect to reports statutorily required of agencies or officers within the executive, legislative, or judicial branches of state government, the State Board of Education, the Board of Governors of the State University System, or the Public Service Commission, it is the duty of the division, in addition to its duties under s. 257.05, to:

(a) Regularly compile and update bibliographic information on such reports for distribution as provided in paragraph (b). Such bibliographic information may be included in the bibliographies prepared by the division pursuant to s. 257.05(3).

(b) Provide for at least quarterly distribution of bibliographic information on reports to:

1. Agencies and officers within the executive, legislative, and judicial branches of state government, the State Board of Education, the Board of Governors of the State University System, and the Public Service Commission, free of charge; and

2. Other interested parties upon request properly made and upon payment of the actual cost of duplication pursuant to s. 119.07(1).

(3) As soon as practicable, the administrative head of each executive, legislative, or judicial agency and each agency of the State Board of Education, the Board of Governors of the State University System, and the Public Service Commission required by law to make reports periodically shall ensure that those reports are created, stored, managed, updated, retrieved, and disseminated through electronic means.

(4) This section may not be construed to waive or modify the requirement in s. 257.05(2) pertaining to the provision of copies of state publications to the division.

History.—ss. 26, 28, 29, ch. 84-254; s. 12, ch. 92-98; s. 104, ch. 92-142; s. 29, ch. 95-196; s. 34, ch. 2007-217; s. 8, ch. 2015-117.

286.0105 Notices of meetings and hearings must advise that a record is required to appeal.—Each board, commission, or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission, or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The requirements of this section do not apply to the notice provided in s. 200.065(3).

History.—s. 1, ch. 80-150; s. 14, ch. 88-216; s. 209, ch. 95-148.

286.011 Public meetings and records; public inspection; criminal and civil penalties.—

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

(3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding $500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Conduct which occurs outside the state which would constitute a knowing violation of this section is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Whenever an action has been filed against any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision to enforce the provisions of this section or to invalidate the actions of any such board, commission, agency, or authority, which action was taken in violation of this section, and the court determines that the defendant or defendants to such action acted in violation of

this section, the court shall assess a reasonable attorney's fee against such agency, and may assess a reasonable attorney's fee against the individual filing such an action if the court finds it was filed in bad faith or was frivolous. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission. However, this subsection shall not apply to a state attorney or his or her duly authorized assistants or any officer charged with enforcing the provisions of this section.

(5) Whenever any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision appeals any court order which has found said board, commission, agency, or authority to have violated this section, and such order is affirmed, the court shall assess a reasonable attorney's fee for the appeal against such board, commission, agency, or authority. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission.

(6) All persons subject to subsection (1) are prohibited from holding meetings at any facility or location which discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in such a manner as to unreasonably restrict public access to such a facility.

(7) Whenever any member of any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision is charged with a violation of this section and is subsequently acquitted, the board or commission is authorized to reimburse said member for any portion of his or her reasonable attorney's fees.

(8) Notwithstanding the provisions of subsection (1), any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision, and the chief administrative or executive officer of the governmental entity, may meet in private with the entity's attorney to discuss pending litigation to which the entity is presently a party before a court or administrative agency, provided that the following conditions are met:

(a) The entity's attorney shall advise the entity at a public meeting that he or she desires advice concerning the litigation.

(b) The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures.

(c) The entire session shall be recorded by a certified court reporter. The reporter shall record the times of commencement and termination of the session, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the session shall be off the record. The court reporter's notes shall be fully transcribed and filed with the entity's clerk within a reasonable time after the meeting.

(d) The entity shall give reasonable public notice of the time and date of the attorney-client session and the names of persons who will be attending the session. The session shall commence at an open meeting at which the persons chairing the meeting shall announce the commencement and estimated length of the attorney-client session and the names of the persons attending. At the conclusion of the attorney-client session, the meeting shall be reopened, and the person chairing the meeting shall announce the termination of the session.

(e) The transcript shall be made part of the public record upon conclusion of the litigation.

History.—s. 1, ch. 67-356; s. 159, ch. 71-136; s. 1, ch. 78-365; s. 6, ch. 85-301; s. 33, ch. 91-224; s. 1, ch. 93-232; s. 210, ch. 95-148; s. 1, ch. 95-353; s. 2, ch. 2012-25.

286.0111 Legislative review of certain exemptions from requirements for public meetings and recordkeeping by governmental entities.—The provisions of s. 119.15, the Open Government Sunset Review Act, apply to the provisions of law which provide exemptions to s. 286.011, as provided in s. 119.15.

History.—s. 9, ch. 84-298; s. 2, ch. 85-301; s. 3, ch. 95-217; s. 53, ch. 2008-4.

286.0113 General exemptions from public meetings.—

(1) That portion of a meeting that would reveal a security system plan or portion thereof made confidential and exempt by s. 119.071(3)(a) is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(2)(a) For purposes of this subsection:

1. "Competitive solicitation" means the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of procurement.

2. "Team" means a group of members established by an agency for the purpose of conducting negotiations as part of a competitive solicitation.

(b)1. Any portion of a meeting at which a negotiation with a vendor is conducted pursuant to a competitive solicitation, at which a vendor makes an oral presentation as part of a competitive solicitation, or at which a vendor answers questions as part of a competitive solicitation is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

2. Any portion of a team meeting at which negotiation strategies are discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(c)1. A complete recording shall be made of any portion of an exempt meeting. No portion of the exempt meeting may be held off the record.

2. The recording of, and any records presented at, the exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever occurs earlier.

3. If the agency rejects all bids, proposals, or replies and concurrently provides notice of its intent to reissue a competitive solicitation, the recording and any records presented at the exempt meeting remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A recording and any records presented at an exempt meeting are not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

History.—s. 2, ch. 2001-361; s. 44, ch. 2005-251; s. 2, ch. 2006-158; s. 2, ch. 2006-284; s. 13, ch. 2010-151; s. 2, ch. 2011-140; s. 2, ch. 2016-49.

286.0114 Public meetings; reasonable opportunity to be heard; attorney fees.—

(1) For purposes of this section, "board or commission" means a board or commission of any state agency or authority or of any agency or authority of a county, municipal corporation, or political subdivision.

(2) Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission. The opportunity to be heard need not occur at the same meeting at which the board or commission takes official action on the proposition if the opportunity occurs at a meeting that is during the decisionmaking process and is within reasonable proximity in time before the meeting at which the board or commission takes the official action. This section does not prohibit a board or commission from maintaining orderly conduct or proper decorum in a public meeting. The opportunity to be heard is subject to rules or policies adopted by the board or commission, as provided in subsection (4).

(3) The requirements in subsection (2) do not apply to:

(a) An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board or commission to act;

(b) An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;

(c) A meeting that is exempt from s. 286.011; or

(d) A meeting during which the board or commission is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.

(4) Rules or policies of a board or commission which govern the opportunity to be heard are limited to those that:

(a) Provide guidelines regarding the amount of time an individual has to address the board or commission;

(b) Prescribe procedures for allowing representatives of groups or factions on a proposition to address the board or commission, rather than all members of such groups or factions, at meetings in which a large number of individuals

wish to be heard;

(c) Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard; to indicate his or her support, opposition, or neutrality on a proposition; and to indicate his or her designation of a representative to speak for him or her or his or her group on a proposition if he or she so chooses; or

(d) Designate a specified period of time for public comment.

(5) If a board or commission adopts rules or policies in compliance with this section and follows such rules or policies when providing an opportunity for members of the public to be heard, the board or commission is deemed to be acting in compliance with this section.

(6) A circuit court has jurisdiction to issue an injunction for the purpose of enforcing this section upon the filing of an application for such injunction by a citizen of this state.

(7)(a) Whenever an action is filed against a board or commission to enforce this section, the court shall assess reasonable attorney fees against such board or commission if the court determines that the defendant to such action acted in violation of this section. The court may assess reasonable attorney fees against the individual filing such an action if the court finds that the action was filed in bad faith or was frivolous. This paragraph does not apply to a state attorney or his or her duly authorized assistants or an officer charged with enforcing this section.

(b) Whenever a board or commission appeals a court order that has found the board or commission to have violated this section, and such order is affirmed, the court shall assess reasonable attorney fees for the appeal against such board or commission.

(8) An action taken by a board or commission which is found to be in violation of this section is not void as a result of that violation.

History.—s. 1, ch. 2013-227.

286.01141 Criminal justice commissions; public meetings exemption.—

(1) As used in this section, the term:

(a) "Duly constituted criminal justice commission" means an advisory commission created by municipal or county ordinance whose membership is comprised of individuals from the private sector and the public sector and whose purpose is to examine local criminal justice issues.

(b) "Active" has the same meaning as provided in s. 119.011.

(c) "Criminal intelligence information" has the same meaning as provided in s. 119.011.

(d) "Criminal investigative information" has the same meaning as provided in s. 119.011.

(2) That portion of a meeting of a duly constituted criminal justice commission at which members of the commission discuss active criminal intelligence information or active criminal investigative information that is currently being considered by, or which may foreseeably come before, the commission is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution, provided that at any public meeting of the criminal justice commission at which such matter is being considered, the commission members publicly disclose the fact that the matter has been discussed.

(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2013-196.

286.0115 Access to local public officials; quasi-judicial proceedings on local government land use matters.—

(1)(a) A county or municipality may adopt an ordinance or resolution removing the presumption of prejudice from ex parte communications with local public officials by establishing a process to disclose ex parte communications with such officials pursuant to this subsection or by adopting an alternative process for such disclosure. However, this subsection does not require a county or municipality to adopt any ordinance or resolution establishing a disclosure process.

(b) As used in this subsection, the term "local public official" means any elected or appointed public official holding a county or municipal office who recommends or takes quasi-judicial action as a member of a board or commission. The term does not include a member of the board or commission of any state agency or authority.

(c) Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or commission on which the local public official is a member. If adopted by county or municipal ordinance or resolution, adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications with local public officials.

1. The substance of any ex parte communication with a local public official which relates to quasi-judicial action pending before the official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

2. A local public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a local public official shall not be presumed prejudicial to the action, and such written communication shall be made a part of the record before final action on the matter.

3. Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

4. Disclosure made pursuant to subparagraphs 1., 2., and 3. must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication. This subsection does not subject local public officials to part III of chapter 112 for not complying with this paragraph.

(2)(a) Notwithstanding the provisions of subsection (1), a county or municipality may adopt an ordinance or resolution establishing the procedures and provisions of this subsection for quasi-judicial proceedings on local government land use matters. The ordinance or resolution shall provide procedures and provisions identical to this subsection. However, this subsection does not require a county or municipality to adopt such an ordinance or resolution.

(b) In a quasi-judicial proceeding on local government land use matters, a person who appears before the decisionmaking body who is not a party or party-intervenor shall be allowed to testify before the decisionmaking body, subject to control by the decisionmaking body, and may be requested to respond to questions from the decisionmaking body, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The decisionmaking body shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasi-judicial proceeding on local government land use matters, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate.

(c) In a quasi-judicial proceeding on local government land use matters, a person may not be precluded from communicating directly with a member of the decisionmaking body by application of ex parte communication prohibitions. Disclosure of such communications by a member of the decisionmaking body is not required, and such nondisclosure shall not be presumed prejudicial to the decision of the decisionmaking body. All decisions of the decisionmaking body in a quasi-judicial proceeding on local government land use matters must be supported by substantial, competent evidence in the record pertinent to the proceeding, irrespective of such communications.

(3) This section does not restrict the authority of any board or commission to establish rules or procedures governing public hearings or contacts with local public officials.

History.—s. 1, ch. 95-352; s. 31, ch. 96-324.

286.012 Voting requirement at meetings of governmental bodies.— A member of a state, county, or municipal governmental board, commission, or agency who is present at a meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted may not abstain from voting in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, unless, with respect to any such member, there is, or appears to be, a possible conflict of interest under s. 112.311, s. 112.313, s. 112.3143, or additional or more stringent standards of conduct, if any, adopted pursuant to s. 112.326. If there is, or appears to be, a

possible conflict under s. 112.311, s. 112.313, or s. 112.3143, the member shall comply with the disclosure requirements of s. 112.3143. If the only conflict or possible conflict is one arising from the additional or more stringent standards adopted pursuant to s. 112.326, the member shall comply with any disclosure requirements adopted pursuant to s. 112.326. If the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice.

History.—s. 1, ch. 72-311; s. 9, ch. 75-208; s. 2, ch. 84-357; s. 13, ch. 94-277; s. 19, ch. 2013-36; s. 7, ch. 2014-183.

286.021 Department of State to hold title to patents, trademarks, copyrights, etc.—The legal title and every right, interest, claim or demand of any kind in and to any patent, trademark or copyright, or application for the same, now owned or held, or as may hereafter be acquired, owned and held by the state, or any of its boards, commissions or agencies, is hereby granted to and vested in the Department of State for the use and benefit of the state; and no person, firm or corporation shall be entitled to use the same without the written consent of said Department of State.

History.—s. 1, ch. 21959, 1943; ss. 22, 35, ch. 69-106; s. 2, ch. 70-440; s. 15, ch. 79-65.

Note.—Former s. 272.01.

286.031 Authority of Department of State in connection with patents, trademarks, copyrights, etc.—The Department of State is authorized to do and perform any and all things necessary to secure letters patent, copyright and trademark on any invention or otherwise, and to enforce the rights of the state therein; to license, lease, assign, or otherwise give written consent to any person, firm or corporation for the manufacture or use thereof, on a royalty basis, or for such other consideration as said department shall deem proper; to take any and all action necessary, including legal actions, to protect the same against improper or unlawful use or infringement, and to enforce the collection of any sums due the state and said department for the manufacture or use thereof by any other party; to sell any of the same and to execute any and all instruments on behalf of the state necessary to consummate any such sale; and to do any and all other acts necessary and proper for the execution of powers and duties herein conferred upon said department for the benefit of the state.

History.—s. 2, ch. 21959, 1943; ss. 22, 35, ch. 69-106; s. 2, ch. 70-440; s. 16, ch. 79-65.

Note.—Former s. 272.02.

286.035 Constitution Revision Commission; powers of chair; assistance by state and local agencies.—

(1) The chair of the Constitution Revision Commission, appointed pursuant to s. 2, Art. XI of the State Constitution, is authorized to employ personnel and to incur expenses related to the official operation of the commission or its committees, to sign vouchers, and to otherwise expend funds appropriated to the commission for carrying out its official duties.

(2) All state and local agencies are hereby authorized and directed to assist, in any manner necessary, the Constitution Revision Commission established pursuant to s. 2, Art. XI of the State Constitution upon its request or the request of its chair.

History.—s. 1, ch. 77-201; s. 211, ch. 95-148.

286.036 Taxation and Budget Reform Commission; powers.—

(1) The Taxation and Budget Reform Commission appointed pursuant to s. 6, Art. XI of the State Constitution, is authorized to employ personnel and to incur expenses related to the official operation of the commission or its committees, and to expend funds appropriated to the commission for carrying out its official duties. Commission members and staff are entitled to per diem and reimbursement of travel expenses incurred in carrying out their duties, as provided in s. 112.061.

(2) All state and regional agencies and governments are authorized and directed to assist, in any manner necessary, the Taxation and Budget Reform Commission upon its request.

(3) All local governments are authorized to assist the Taxation and Budget Reform Commission in any manner necessary. Municipal and county governments are encouraged to cooperate with the commission, examine their taxation and budgetary policies, and submit recommendations to the commission in the form and manner prescribed by the commission.

(4) Each Taxation and Budget Reform Commission established pursuant to s. 6, Art. XI of the State Constitution and this section may not act or operate later than June 30 of the third year following the year in which the commission is required to be established.

(5) The Taxation and Budget Reform Commission is assigned, for administrative purposes, to the legislative branch. The Office of Legislative Services is directed to expedite, where possible, the business of the commission consistent with prudent financial and management practices.

(6) The Legislative Auditing Committee may at any time, without regard to whether the Legislature is then in session or out of session, take under consideration any matter within the scope of the duties of the Taxation and Budget Reform Commission, and in connection therewith may exercise the powers of subpoena by law vested in a standing committee of the Legislature.

History.—s. 12, ch. 90-203; s. 6, ch. 2007-98.

286.041 Prohibited requirements of bidders on contracts for public works relative to income tax returns.—

(1) The state or any of its departments, agencies, bureaus, commissions, and officers and the counties, consolidated governments, municipalities, school districts, special districts, and other public bodies of this state, and the departments, agencies, bureaus, commissions, and officers thereof, shall not require, directly or indirectly, an audit or inspection of any federal or state income tax returns of any company, corporation, or person as a prior condition before entering into contracts with said company, corporation, or person to construct any public work or to supply any materials, labor, equipment or services, or any combination thereof.

(2) Any person who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083, except that the fine shall not be less than $100.

History.—s. 1, ch. 72-130.

286.043 Limitation on use of funds for discriminatory contract or bid specifications relating to car rental concessions at airports.—No public funds shall be used by a unit of local government for the purpose of promulgating contract or bid specifications relating to car rental concessions at airports which would preclude a corporation authorized to do business in this state from submitting bids or entering into such contracts with such unit of local government. Nothing in this section shall prevent the local government from providing in such specifications a minimum annual guarantee of revenue to be paid to such unit of local government.

History.—s. 4, ch. 79-119.

286.23 Real property conveyed to public agency; disclosure of beneficial interests; notice; exemptions.—

(1) Any person or entity holding real property in the form of a partnership, limited partnership, corporation, trust, or any form of representative capacity whatsoever for others, except as otherwise provided in this section, shall, before entering into any contract whereby such real property held in representative capacity is sold, leased, taken by eminent domain, or otherwise conveyed to the state or any local governmental unit, or an agency of either, make a public disclosure in writing, under oath and subject to the penalties prescribed for perjury, which shall state his or her name and address and the name and address of every person having a beneficial interest in the real property, however small or minimal. This written disclosure shall be made to the chief officer, or to his or her officially designated representative, of the state, local governmental unit, or agency of either, with which the transaction is made at least 10 days prior to the time of closing or, in the case of an eminent domain taking, within 48 hours after the time when the required sum is deposited in the registry of the court. Notice of the deposit shall be made to the person or entity by registered or certified mail before the 48-hour period begins.

(2) The state or local governmental unit, or an agency of either, shall send written notice by registered mail to the person required to make disclosures under this section, prior to the time when such disclosures are required to be made, which written request shall also inform the person required to make such disclosure that such disclosure must be made under oath, subject to the penalties prescribed for perjury.

(3)(a) The beneficial interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to chapter 517, whose interest is for sale to the general public, is hereby exempt from the provisions of this section. When disclosure of persons having beneficial interests in nonpublic entities is required, the

entity or person shall not be required by the provisions of this section to disclose persons or entities holding less than 5 percent of the beneficial interest in the disclosing entity.

(b) In the case of an eminent domain taking, any entity or person other than a public officer or public employee, holding real property in the form of a trust which was created more than 3 years prior to the deposit of the required sum in the registry of the court, is hereby exempt from the provisions of this section. However, in order to qualify for the exemption set forth in this section, the trustee of such trust shall be required to certify within 48 hours after such deposit, under penalty of perjury, that no public officer or public employee has any beneficial interest whatsoever in such trust. Disclosure of any changes in the trust instrument or of persons having beneficial interest in the trust shall be made if such changes occurred during the 3 years prior to the deposit of said sum in the registry of the court.

(4) This section shall be liberally construed to accomplish the purpose of requiring the identification of the actual parties benefiting from any transaction with a governmental unit or agency involving the procurement of the ownership or use of property by such governmental unit or agency.

History.—ss. 1, 2, 3, 4, 5, ch. 74-174; s. 1, ch. 77-174; s. 72, ch. 86-186; s. 7, ch. 91-56; s. 212, ch. 95-148.

286.25 Publication or statement of state sponsorship.— Any nongovernmental organization which sponsors a program financed partially by state funds or funds obtained from a state agency shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by _(name of organization)_ and the State of Florida." If the sponsorship reference is in written material, the words "State of Florida" shall appear in the same size letters or type as the name of the organization.

History.—s. 1, ch. 77-224.

286.26 Accessibility of public meetings to the physically handicapped.—

(1) Whenever any board or commission of any state agency or authority, or of any agency or authority of any county, municipal corporation, or other political subdivision, which has scheduled a meeting at which official acts are to be taken receives, at least 48 hours prior to the meeting, a written request by a physically handicapped person to attend the meeting, directed to the chairperson or director of such board, commission, agency, or authority, such chairperson or director shall provide a manner by which such person may attend the meeting at its scheduled site or reschedule the meeting to a site which would be accessible to such person.

(2) If an affected handicapped person objects in the written request, nothing contained in the provisions of this section shall be construed or interpreted to permit the use of human physical assistance to the physically handicapped in lieu of the construction or use of ramps or other mechanical devices in order to comply with the provisions of this section.

History.—s. 1, ch. 77-277; s. 1, ch. 79-170; s. 116, ch. 79-400; s. 1, ch. 81-268.

286.27 Use of state funds for greeting cards prohibited.— No state funds shall be expended for the purchase, preparation, printing, or mailing of any card the sole purpose of which is to convey holiday greetings.

History.—s. 1, ch. 92-21.

286.29 Climate-friendly public business.— The Legislature recognizes the importance of leadership by state government in the area of energy efficiency and in reducing the greenhouse gas emissions of state government operations. The following shall pertain to all state agencies when conducting public business:

(1) The Department of Management Services shall develop the "Florida Climate-Friendly Preferred Products List." In maintaining that list, the department, in consultation with the Department of Environmental Protection, shall continually assess products currently available for purchase under state term contracts to identify specific products and vendors that offer clear energy efficiency or other environmental benefits over competing products. When procuring products from state term contracts, state agencies shall first consult the Florida Climate-Friendly Preferred Products List and procure such products if the price is comparable.

(2) Effective July 1, 2008, state agencies shall contract for meeting and conference space only with hotels or conference facilities that have received the "Green Lodging" designation from the Department of Environmental Protection for best practices in water, energy, and waste efficiency standards, unless the responsible state agency head

makes a determination that no other viable alternative exists. The Department of Environmental Protection is authorized to adopt rules to implement the "Green Lodging" program.

(3) Each state agency shall ensure that all maintained vehicles meet minimum maintenance schedules shown to reduce fuel consumption, which include: ensuring appropriate tire pressures and tread depth; replacing fuel filters and emission filters at recommended intervals; using proper motor oils; and performing timely motor maintenance. Each state agency shall measure and report compliance to the Department of Management Services through the Equipment Management Information System database.

(4) When procuring new vehicles, all state agencies, state universities, community colleges, and local governments that purchase vehicles under a state purchasing plan shall first define the intended purpose for the vehicle and determine which of the following use classes for which the vehicle is being procured:

(a) State business travel, designated operator;
(b) State business travel, pool operators;
(c) Construction, agricultural, or maintenance work;
(d) Conveyance of passengers;
(e) Conveyance of building or maintenance materials and supplies;
(f) Off-road vehicle, motorcycle, or all-terrain vehicle;
(g) Emergency response; or
(h) Other.

Vehicles described in paragraphs (a) through (h), when being processed for purchase or leasing agreements, must be selected for the greatest fuel efficiency available for a given use class when fuel economy data are available. Exceptions may be made for individual vehicles in paragraph (g) when accompanied, during the procurement process, by documentation indicating that the operator or operators will exclusively be emergency first responders or have special documented need for exceptional vehicle performance characteristics. Any request for an exception must be approved by the purchasing agency head and any exceptional performance characteristics denoted as a part of the procurement process prior to purchase.

(5) All state agencies shall use ethanol and biodiesel blended fuels when available. State agencies administering central fueling operations for state-owned vehicles shall procure biofuels for fleet needs to the greatest extent practicable.

History.—s. 23, ch. 2008-227.

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FLORIDA COMMISSION ON ETHICS

GUIDE
to the
SUNSHINE AMENDMENT
and
CODE of ETHICS
for Public Officers and Employees

2017

State of Florida

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I. HISTORY OF FLORIDA'S ETHICS LAWS

Florida has been a leader among the states in establishing ethics standards for public officials and recognizing the right of citizens to protect the public trust against abuse. Our state Constitution was revised in 1968 to require a code of ethics, prescribed by law, for all state employees and non-judicial officers prohibiting conflict between public duty and private interests.

Florida's first successful constitutional initiative resulted in the adoption of the Sunshine Amendment in 1976, providing additional constitutional guarantees concerning ethics in government. In the area of enforcement, the Sunshine Amendment requires that there be an independent commission (the Commission on Ethics) to investigate complaints concerning breaches of public trust by public officers and employees other than judges.

The Code of Ethics for Public Officers and Employees is found in Chapter 112 (Part III) of the Florida Statutes. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people for their government. The Code is also intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law. While seeking to protect the integrity of government, the Code also seeks to avoid the creation of unnecessary barriers to public service.

Criminal penalties, which initially applied to violations of the Code, were eliminated in 1974 in favor of administrative enforcement. The Legislature created the Commission on Ethics that year "to serve as guardian of the standards of conduct" for public officials, state and local. Five of the Commission's nine members are appointed by the Governor, and two each are appointed by the President of the Senate and Speaker of the House of Representatives. No more than five Commission members may be members of the same political party, and none may be lobbyists, or hold any public employment during their two-year terms of office. A chair is selected from among the members to serve a one-year term and may not succeed himself or herself.

II. ROLE OF THE COMMISSION ON ETHICS

In addition to its constitutional duties regarding the investigation of complaints, the Commission:

- Renders advisory opinions to public officials;
- Prescribes forms for public disclosure;
- Prepares mailing lists of public officials subject to financial disclosure for use by Supervisors of Elections and the Commission in distributing forms and notifying delinquent filers;
- Makes recommendations to disciplinary officials when appropriate for violations of ethics and disclosure laws, since it does not impose penalties;
- Administers the Executive Branch Lobbyist Registration and Reporting Law;
- Maintains financial disclosure filings of constitutional officers and state officers and employees; and,
- Administers automatic fines for public officers and employees who fail to timely file required annual financial disclosure.

III. THE ETHICS LAWS

The ethics laws generally consist of two types of provisions, those prohibiting certain actions or conduct and those requiring that certain disclosures be made to the public. The following descriptions of these laws have been simplified in an effort to provide notice of their requirements. Therefore, we suggest that you also review the wording of the actual law. Citations to the appropriate laws are in brackets.

The laws summarized below apply generally to all public officers and employees, state and local, including members of advisory bodies. The principal exception to this broad coverage is the exclusion of judges, as they fall within the jurisdiction of the Judicial Qualifications Commission.

Public Service Commission (PSC) members and employees, as well as members of the PSC Nominating Council, are subject to additional ethics standards that are enforced by the Commission on Ethics under Chapter 350, Florida Statutes. Further, members of the governing boards of charter schools are subject to some of the provisions of the Code of Ethics [Sec. 1002.33(26), Fla. Stat.], as are the officers, directors, chief executive officers and some employees of business entities that serve as the chief administrative or executive officer or employee of a political subdivision. [Sec. 112.3136, Fla. Stat.].

A. PROHIBITED ACTIONS OR CONDUCT

1. Solicitation and Acceptance of Gifts

Public officers, employees, local government attorneys, and candidates are prohibited from soliciting or accepting anything of value, such as a gift, loan, reward, promise of future employment, favor, or service, that is based on an understanding that their vote, official action, or judgment would be influenced by such gift. [Sec. 112.313(2), Fla. Stat.]

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** any gift from a political committee, lobbyist who has lobbied the official or his or her agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist or from a vendor doing business with the official's agency. [Sec. 112.3148, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees are prohibited from directly or indirectly **accepting** a gift worth more than $100 from such a lobbyist, from a partner, firm, employer, or principal of the lobbyist, or from a political committee or vendor doing business with their agency. [Sec.112.3148, Fla. Stat.]

However, effective in 2006 and notwithstanding Sec. 112.3148, Fla. Stat., no Executive Branch lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] Typically, this would include gifts valued at less than $100 that formerly were permitted under Section 112.3148, Fla. Stat. Similar rules apply to members and

employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

Also, effective May 1, 2013, persons required to file Form 1 or Form 6, and state procurement employees and members of their immediate families, are prohibited from accepting any gift from a political committee. [Sec. 112.31485, Fla. Stat.]

2. Unauthorized Compensation

Public officers or employees, local government attorneys, and their spouses and minor children are prohibited from accepting any compensation, payment, or thing of value when they know, or with the exercise of reasonable care should know, that it is given to influence a vote or other official action. [Sec. 112.313(4), Fla. Stat.]

3. Misuse of Public Position

Public officers and employees, and local government attorneys are prohibited from corruptly using or attempting to use their official positions or the resources thereof to obtain a special privilege or benefit for themselves or others. [Sec. 112.313(6), Fla. Stat.]

4. Disclosure or Use of Certain Information

Public officers and employees and local government attorneys are prohibited from disclosing or using information not available to the public and obtained by reason of their public position for the personal benefit of themselves or others. [Sec. 112.313(8), Fla. Stat.]

5. Solicitation or Acceptance of Honoraria

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** honoraria related to their public offices or duties. [Sec. 112.3149, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees, are prohibited from knowingly **accepting** an honorarium from a political committee, lobbyist who has lobbied the person's agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist, or from a vendor doing business with the official's agency. However, they may accept the payment of expenses related to an honorarium event from such individuals or entities, provided that the expenses are disclosed. See Part III F of this brochure. [Sec. 112.3149, Fla. Stat.]

Lobbyists and their partners, firms, employers, and principals, as well as political committees and vendors, are prohibited from **giving** an honorarium to persons required to file FORM 1 or FORM 6 and to state procurement employees. Violations of this law may result in fines of up to $5,000 and prohibitions against lobbying for up to two years. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no Executive Branch or legislative lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or

FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] This may include honorarium event related expenses that formerly were permitted under Sec. 112.3149, Fla. Stat. Similar rules apply to members and employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

B. PROHIBITED EMPLOYMENT AND BUSINESS RELATIONSHIPS

1. *Doing Business With One's Agency*

(a) A public employee acting as a purchasing agent, or public officer acting in an official capacity, is prohibited from purchasing, renting, or leasing any realty, goods, or services for his or her agency from a business entity in which the officer or employee or his or her spouse or child owns more than a 5% interest. [Sec. 112.313(3), Fla. Stat.]

(b) A public officer or employee, acting in a private capacity, also is prohibited from renting, leasing, or selling any realty, goods, or services to his or her own agency if the officer or employee is a state officer or employee, or, if he or she is an officer or employee of a political subdivision, to that subdivision or any of its agencies. [Sec. 112.313(3), Fla. Stat.]

2. *Conflicting Employment or Contractual Relationship*

(a) A public officer or employee is prohibited from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. [Sec. 112.313(7), Fla. Stat.]

(b) A public officer or employee also is prohibited from holding any employment or having a contractual relationship which will pose a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties. [Sec. 112.313(7), Fla. Stat.]

(c) Limited exceptions to this prohibition have been created in the law for legislative bodies, certain special tax districts, drainage districts, and persons whose professions or occupations qualify them to hold their public positions. [Sec. 112.313(7)(a) and (b), Fla. Stat.]

3. Exemptions—Pursuant to Sec. 112.313(12), Fla. Stat., the prohibitions against doing business with one's agency and having conflicting employment may not apply:

(a) When the business is rotated among all qualified suppliers in a city or county.

(b) When the business is awarded by sealed, competitive bidding and neither the official nor his or her spouse or child have attempted to persuade agency personnel to enter the contract. NOTE: Disclosure of the interest of the official, spouse, or child and the nature of the business must be filed prior to or at the time of submission of the bid on Commission FORM 3A with the Commission on Ethics or Supervisor of Elections, depending on whether the official serves at the state or local level.

(c) When the purchase or sale is for legal advertising, utilities service, or for passage on a common carrier.

(d) When an emergency purchase must be made to protect the public health, safety, or welfare.

(e) When the business entity is the only source of supply within the political subdivision and there is full disclosure of the official's interest to the governing body on Commission FORM 4A.

(f) When the aggregate of any such transactions does not exceed $500 in a calendar year.

(g) When the business transacted is the deposit of agency funds in a bank of which a county, city, or district official is an officer, director, or stockholder, so long as agency records show that the governing body has determined that the member did not favor his or her bank over other qualified banks.

(h) When the prohibitions are waived in the case of ADVISORY BOARD MEMBERS by the appointing person or by a two-thirds vote of the appointing body (after disclosure on Commission FORM 4A).

(i) When the public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.

(j) When the public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency where the price and terms of the transaction are available to similarly situated members of the general public and the officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

4. Additional Exemptions

No elected public officer is in violation of the conflicting employment prohibition when employed by a tax exempt organization contracting with his or her agency so long as the officer is not directly or indirectly compensated as a result of the contract, does not participate in any way in the decision to enter into the contract, abstains from voting on any matter involving the employer, and makes certain disclosures. [Sec. 112.313(15), Fla. Stat.] A qualified blind trust established pursuant to Sec. 112.31425, Fla. Stat., may afford an official protection from conflicts of interest arising from assets placed in the trust.

5. Lobbying State Agencies By Legislators

A member of the Legislature is prohibited from representing another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals. [Art. II, Sec. 8(e), Fla. Const., and Sec. 112.313(9), Fla. Stat.]

6. Employees Holding Office

A public employee is prohibited from being a member of the governing body which serves as his or her employer. [Sec. 112.313(10), Fla. Stat.]

7. Professional and Occupational Licensing Board Members

An officer, director, or administrator of a state, county, or regional professional or occupational organization or association, while holding such position, may not serve as a member of a state examining or licensing board for the profession or occupation. [Sec. 112.313(11), Fla. Stat.]

8. Contractual Services: Prohibited Employment

A state employee of the executive or judicial branch who participates in the decision-making process involving a purchase request, who influences the content of any specification or procurement standard, or who renders advice, investigation, or auditing, regarding his or her agency's contract for services, is prohibited from being employed with a person holding such a contract with his or her agency. [Sec. 112.3185(2), Fla. Stat.]

9. *Local Government Attorneys*

Local government attorneys, such as the city attorney or county attorney, and their law firms are prohibited from representing private individuals and entities before the unit of local government which they serve. A local government attorney cannot recommend or otherwise refer to his or her firm legal work involving the local government unit unless the attorney's contract authorizes or mandates the use of that firm. [Sec. 112.313(16), Fla. Stat.]

10. *Dual Public Employment*

Candidates and elected officers are prohibited from accepting public employment if they know or should know it is being offered for the purpose of influence. Further, public employment may not be accepted unless the position was already in existence or was created without the anticipation of the official's interest, was publicly advertised, and the officer had to meet the same qualifications and go through the same hiring process as other applicants. For elected public officers already holding public employment, no promotion given for the purpose of influence may be accepted, nor may promotions that are inconsistent with those given other similarly situated employees. [Sec. 112.3125, Fla. Stat.]

C. RESTRICTIONS ON APPOINTING, EMPLOYING, AND CONTRACTING WITH RELATIVES

1. Anti-Nepotism Law

A public official is prohibited from seeking for a relative any appointment, employment, promotion or advancement in the agency in which he or she is serving or over which the official exercises jurisdiction or control. No person may be appointed, employed, promoted, or advanced in or to a position in an agency if such action has been advocated by a related public official who is serving in or exercising jurisdiction or control over the agency; this includes relatives of members of collegial government bodies. NOTE: This prohibition does not apply to school districts (except as provided in Sec. 1012.23, Fla. Stat.), community colleges and state universities, or to appointments of boards, other than those with land-planning or zoning responsibilities, in municipalities of fewer than 35,000 residents. Also, the approval of budgets does not constitute "jurisdiction or control" for the purposes of this prohibition. This

provision does not apply to volunteer emergency medical, firefighting, or police service providers. [Sec. 112.3135, Fla. Stat.]

2. Additional Restrictions

A state employee of the executive or judicial branch or the PSC is prohibited from directly or indirectly procuring contractual services for his or her agency from a business entity of which a relative is an officer, partner, director, or proprietor, or in which the employee, or his or her spouse, or children own more than a 5% interest. [Sec. 112.3185(6), Fla. Stat.]

D. POST OFFICE HOLDING AND EMPLOYMENT (REVOLVING DOOR) RESTRICTIONS

1. Lobbying by Former Legislators, Statewide Elected Officers, and Appointed State Officers

A member of the Legislature or a statewide elected or appointed state official is prohibited for two years following vacation of office from representing another person or entity for compensation before the government body or agency of which the individual was an officer or member. Former members of the Legislature are also prohibited for two years from lobbying the executive branch. [Art. II, Sec. 8(e), Fla. Const. and Sec. 112.313(9), Fla. Stat.]

2. Lobbying by Former State Employees

Certain employees of the executive and legislative branches of state government are prohibited from personally representing another person or entity for compensation before the agency with which they were employed for a period of two years after leaving their positions, unless employed by another agency of state government. [Sec. 112.313(9), Fla. Stat.] These employees include the following:

(a) Executive and legislative branch employees serving in the Senior Management Service and Selected Exempt Service, as well as any person employed by the Department of the Lottery having authority over policy or procurement.

(b) Persons serving in the following position classifications: the Auditor General; the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA); the Sergeant at Arms and Secretary of the Senate; the Sergeant at Arms and Clerk of the House of Representatives; the executive director and deputy executive director of the Commission on Ethics; an executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, legislative analyst, or attorney serving in the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, the Senate Minority Party Office, the House Majority Party Office, or the House Minority Party Office; the Chancellor and Vice-Chancellors of the State University System; the general counsel to the Board of Regents; the president, vice presidents, and deans of each state university; any person hired on a contractual basis and having the power normally conferred upon such persons, by whatever title; and any person having the power normally conferred upon the above positions.

This prohibition does not apply to a person who was employed by the Legislature or other agency prior to July 1, 1989; who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994; or who reached normal retirement age and retired by July 1, 1991. It does apply to OPS employees.

PENALTIES: Persons found in violation of this section are subject to the penalties contained in the Code (see PENALTIES, Part V) as well as a civil penalty in an amount equal to the compensation which the person received for the prohibited conduct. [Sec. 112.313(9)(a)5, Fla. Stat.]

3. Additional Restrictions on Former State Employees

A former executive or judicial branch employee or PSC employee is prohibited from having employment or a contractual relationship, at any time after retirement or termination of employment, with any business entity (other than a public agency) in connection with a contract in which the employee participated personally and substantially by recommendation or decision while a public employee. [Sec. 112.3185(3), Fla. Stat.]

A former executive or judicial branch employee or PSC employee who has retired or terminated employment is prohibited from having any employment or contractual relationship for two years with any business entity (other than a public agency) in connection with a contract for services which was within his or her responsibility while serving as a state employee. [Sec.112.3185(4), Fla. Stat.]

Unless waived by the agency head, a former executive or judicial branch employee or PSC employee may not be paid more for contractual services provided by him or her to the former agency during the first year after leaving the agency than his or her annual salary before leaving. [Sec. 112.3185(5), Fla. Stat.]

These prohibitions do not apply to PSC employees who were so employed on or before Dec. 31, 1994.

4. Lobbying by Former Local Government Officers and Employees

A person elected to county, municipal, school district, or special district office is prohibited from representing another person or entity for compensation before the government body or agency of which he or she was an officer for two years after leaving office. Appointed officers and employees of counties, municipalities, school districts, and special districts may be subject to a similar restriction by local ordinance or resolution. [Sec. 112.313(13) and (14), Fla. Stat.]

E. VOTING CONFLICTS OF INTEREST

State public officers are prohibited from voting in an official capacity on any measure which they know would inure to their own special private gain or loss. A state public officer who abstains, or who votes on a measure which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, must make every reasonable effort to file a memorandum of voting conflict with the recording secretary in advance of the vote. If that is not possible,

it must be filed within 15 days after the vote occurs. The memorandum must disclose the nature of the officer's interest in the matter.

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss, or which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate. The officer must publicly announce the nature of his or her interest before the vote and must file a memorandum of voting conflict on Commission Form 8B with the meeting's recording officer within 15 days after the vote occurs disclosing the nature of his or her interest in the matter. However, members of community redevelopment agencies and district officers elected on a one-acre, one-vote basis are not required to abstain when voting in that capacity.

No appointed state or local officer shall participate in any matter which would inure to the officer's special private gain or loss, the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, without first disclosing the nature of his or her interest in the matter. The memorandum of voting conflict (Commission Form 8A or 8B) must be filed with the meeting's recording officer, be provided to the other members of the agency, and be read publicly at the next meeting.

If the conflict is unknown or not disclosed prior to the meeting, the appointed official must orally disclose the conflict at the meeting when the conflict becomes known. Also, a written memorandum of voting conflict must be filed with the meeting's recording officer within 15 days of the disclosure being made and must be provided to the other members of the agency, with the disclosure being read publicly at the next scheduled meeting. [Sec. 112.3143, Fla. Stat.]

A qualified blind trust established pursuant to Sec. 112.31425, Fla. Stat., may afford an official protection from voting conflicts of interest arising from assets placed in the trust.

F. DISCLOSURES

Conflicts of interest may occur when public officials are in a position to make decisions that affect their personal financial interests. This is why public officers and employees, as well as candidates who run for public office, are required to publicly disclose their financial interests. The disclosure process serves to remind officials of their obligation to put the public interest above personal considerations. It also helps citizens to monitor the considerations of those who spend their tax dollars and participate in public policy decisions or administration.

All public officials and candidates do not file the same degree of disclosure; nor do they all file at the same time or place. Thus, care must be taken to determine which disclosure forms a particular official or candidate is required to file.

The following forms are described below to set forth the requirements of the various disclosures and the steps for correctly providing the information in a timely manner.

1. *FORM 1 - Limited Financial Disclosure*

Who Must File:

Persons required to file FORM 1 include all state officers, local officers, candidates for local elective office, and specified state employees as defined below (other than those officers who are required by law to file FORM 6).

STATE OFFICERS include:

1) Elected public officials not serving in a political subdivision of the state and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.

2) Appointed members of each board, commission, authority, or council having statewide jurisdiction, excluding members of solely advisory bodies; but including judicial nominating commission members; directors of Enterprise Florida, Scripps Florida Funding Corporation, and CareerSource Florida, and members of the Council on the Social Status of Black Men and Boys; the Executive Director, governors, and senior managers of Citizens Property Insurance Corporation; governors and senior managers of Florida Workers' Compensation Joint Underwriting Association, board members of the Northeast Florida Regional Transportation Commission, and members of the board of Triumph Gulf Coast, Inc.; members of the board of Florida is for Veterans, Inc.; and members of the Technology Advisory Council within the Agency for State Technology.

3) The Commissioner of Education, members of the State Board of Education, the Board of Governors, and the local boards of trustees and presidents of state universities.

LOCAL OFFICERS include:

1) Persons elected to office in any political subdivision (such as municipalities, counties, and special districts) and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.

2) Appointed members of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision: the governing body of the subdivision; a community college or junior college district board of trustees; a board having the power to enforce local code provisions; a planning or zoning board, board of adjustments or appeals, community redevelopment agency board, or other board having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and similar groups who only have the power to make recommendations to planning or zoning boards, except for representatives of a military installation acting on behalf of all military installations within that jurisdiction; a pension board or retirement board empowered to invest pension or retirement funds or to determine entitlement to or amount of a pension or other retirement benefit.

3) Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.

4) Persons holding any of these positions in local government: mayor; county or city manager; chief administrative employee or finance director of a county, municipality, or other political subdivision; county or municipal attorney; chief county or municipal building inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; appointed district school superintendent; community college president; district medical examiner; purchasing agent (regardless of title) having the authority to make any purchase exceeding $20,000 for the local governmental unit.

5) Members of governing boards of charter schools operated by a city or other public entity.

6) The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision. [Sec. 112.3136, Fla. Stat.]

SPECIFIED STATE EMPLOYEE includes:

1) Employees in the Office of the Governor or of a Cabinet member who are exempt from the Career Service System, excluding secretarial, clerical, and similar positions.

2) The following positions in each state department, commission, board, or council: secretary or state surgeon general, assistant or deputy secretary, executive director, assistant or deputy executive director, and anyone having the power normally conferred upon such persons, regardless of title.

3) The following positions in each state department or division: director, assistant or deputy director, bureau chief, assistant bureau chief, and any person having the power normally conferred upon such persons, regardless of title.

4) Assistant state attorneys, assistant public defenders, criminal conflict and civil regional counsel, assistant criminal conflict and civil regional counsel, public counsel, full-time state employees serving as counsel or assistant counsel to a state agency, judges of compensation claims, administrative law judges, and hearing officers.

5) The superintendent or director of a state mental health institute established for training and research in the mental health field, or any major state institution or facility established for corrections, training, treatment, or rehabilitation.

6) State agency business managers, finance and accounting directors, personnel officers, grant coordinators, and purchasing agents (regardless of title) with power to make a purchase exceeding $20,000.

7) The following positions in legislative branch agencies: each employee (other than those employed in maintenance, clerical, secretarial, or similar positions and legislative assistants exempted by the presiding officer of their house); and each employee of the Commission on Ethics.

What Must Be Disclosed:

FORM 1 requirements are set forth fully on the form. In general, this includes the reporting person's sources and types of financial interests, such as the names of employers and addresses of real property holdings. NO DOLLAR VALUES ARE REQUIRED TO BE LISTED. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

When to File:

CANDIDATES for elected local office must file FORM 1 together with and at the same time they file their qualifying papers.

STATE and LOCAL OFFICERS and SPECIFIED STATE EMPLOYEES are required to file disclosure by July 1 of each year. They also must file within thirty days from the date of appointment or the beginning of employment. Those appointees requiring Senate confirmation must file prior to confirmation.

Where to File:

Each LOCAL OFFICER files FORM 1 with the Supervisor of Elections in the county in which he or she permanently resides.

A STATE OFFICER or SPECIFIED STATE EMPLOYEE files with the Commission on Ethics. [Sec. 112.3145, Fla. Stat.]

2. *FORM 1F - Final Form 1 Limited Financial Disclosure*

FORM 1F is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 1 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

3. *FORM 2 - Quarterly Client Disclosure*

The state officers, local officers, and specified state employees listed above, as well as elected constitutional officers, must file a FORM 2 if they or a partner or associate of their professional firm represent a client for compensation before an agency at their level of government.

A FORM 2 disclosure includes the names of clients represented by the reporting person or by any partner or associate of his or her professional firm for a fee or commission before agencies at the reporting person's level of government. Such representations do not include appearances in ministerial matters, appearances before judges of compensation claims, or representations on behalf of one's

agency in one's official capacity. Nor does the term include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license, so long as the issuance of the license does not require a variance, special consideration, or a certificate of public convenience and necessity.

When to File:

This disclosure should be filed quarterly, by the end of the calendar quarter following the calendar quarter during which a reportable representation was made. FORM 2 need not be filed merely to indicate that no reportable representations occurred during the preceding quarter; it should be filed ONLY when reportable representations were made during the quarter.

Where To File:

LOCAL OFFICERS file with the Supervisor of Elections of the county in which they permanently reside.

STATE OFFICERS and SPECIFIED STATE EMPLOYEES file with the Commission on Ethics. [Sec. 112.3145(4), Fla. Stat.]

4. *FORM 6 - Full and Public Disclosure*

Who Must File:

Persons required by law to file FORM 6 include all elected constitutional officers and candidates for such office; the mayor and members of the city council and candidates for these offices in Jacksonville; the Duval County Superintendent of Schools; judges of compensation claims (pursuant to Sec. 440.442, Fla. Stat.); and members of the Florida Housing Finance Corporation Board and the Florida Prepaid College Board; and members of expressway authorities, transportation authorities (except the Jacksonville Transportation Authority), bridge authority, or toll authorities created pursuant to Ch. 348 or 343, or 349, or other general law.

What Must be Disclosed:

FORM 6 is a detailed disclosure of assets, liabilities, and sources of income over $1,000 and their values, as well as net worth. Officials may opt to file their most recent income tax return in lieu of listing sources of income but still must disclose their assets, liabilities, and net worth. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

When and Where To File:

Incumbent officials must file FORM 6 annually by July 1 with the Commission on Ethics. CANDIDATES must file with the officer before whom they qualify at the time of qualifying. [Art. II, Sec. 8(a) and (i), Fla. Const., and Sec. 112.3144, Fla. Stat.]

5. *FORM 6F - Final Form 6 Full and Public Disclosure*

This is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 6 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

6. *FORM 9 - Quarterly Gift Disclosure*

Each person required to file FORM 1 or FORM 6, and each state procurement employee, must file a FORM 9, Quarterly Gift Disclosure, with the Commission on Ethics on the last day of any calendar quarter following the calendar quarter in which he or she received a gift worth more than $100, other than gifts from relatives, gifts prohibited from being accepted, gifts primarily associated with his or her business or employment, and gifts otherwise required to be disclosed. FORM 9 NEED NOT BE FILED if no such gift was received during the calendar quarter.

Information to be disclosed includes a description of the gift and its value, the name and address of the donor, the date of the gift, and a copy of any receipt for the gift provided by the donor. [Sec. 112.3148, Fla. Stat.]

7. *FORM 10 - Annual Disclosure of Gifts from Government Agencies and Direct-Support Organizations and Honorarium Event Related Expenses*

State government entities, airport authorities, counties, municipalities, school boards, water management districts, and the South Florida Regional Transportation Authority, may give a gift worth more than $100 to a person required to file FORM 1 or FORM 6, and to state procurement employees, if a public purpose can be shown for the gift. Also, a direct-support organization for a governmental entity may give such a gift to a person who is an officer or employee of that entity. These gifts are to be reported on FORM 10, to be filed by July 1.

The governmental entity or direct-support organization giving the gift must provide the officer or employee with a statement about the gift no later than March 1 of the following year. The officer or employee then must disclose this information by filing a statement by July 1 with his or her annual financial disclosure that describes the gift and lists the donor, the date of the gift, and the value of the total gifts provided during the calendar year. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3148, Fla. Stat.]

In addition, a person required to file FORM 1 or FORM 6, or a state procurement employee, who receives expenses or payment of expenses related to an honorarium event from someone who is prohibited from giving him or her an honorarium, must disclose annually the name, address, and affiliation of the donor, the amount of the expenses, the date of the event, a description of the expenses paid or provided, and the total value of the expenses on FORM 10. The donor paying the expenses must provide the officer or employee with a statement about the expenses within 60 days of the honorarium event.

The disclosure must be filed by July 1, for expenses received during the previous calendar year, with the officer's or employee's FORM 1 or FORM 6. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no executive branch or legislative lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. This may include gifts or honorarium event related expenses that formerly were permitted under Sections 112.3148 and 112.3149. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts, which include anything not primarily related to political activities authorized under ch. 106, are prohibited from political committees. [Sec. 112.31485 Fla. Stat.]

8. *FORM 30 - Donor's Quarterly Gift Disclosure*

As mentioned above, the following persons and entities generally are prohibited from giving a gift worth more than $100 to a reporting individual (a person required to file FORM 1 or FORM 6) or to a state procurement employee; a political committee; a lobbyist who lobbies the reporting individual's or procurement employee's agency, and the partner, firm, employer, or principal of such a lobbyist; and vendors. If such person or entity makes a gift worth between $25 and $100 to a reporting individual or state procurement employee (that is not accepted in behalf of a governmental entity or charitable organization), the gift should be reported on FORM 30. The donor also must notify the recipient at the time the gift is made that it will be reported.

The FORM 30 should be filed by the last day of the calendar quarter following the calendar quarter in which the gift was made. If the gift was made to an individual in the legislative branch, FORM 30 should be filed with the Lobbyist Registrar. [See page 35 for address.] If the gift was to any other reporting individual or state procurement employee, FORM 30 should be filed with the Commission on Ethics.

However, notwithstanding Section 112.3148, Fla. Stat., no executive branch lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. This may include gifts that formerly were permitted under Section 112.3148. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts from political committees are prohibited. [Sec. 112.31485, Fla. Stat.]

9. *FORM 1X AND FORM 6X - Amendments to Form 1 and Form 6*

These forms are provided for officers or employees to amend their previously filed Form 1 or Form 6.

IV. AVAILABILITY OF FORMS

LOCAL OFFICERS and EMPLOYEES who must file FORM 1 annually will be sent the form by mail from the Supervisor of Elections in the county in which they permanently reside not later than JUNE 1 of each

year. Newly elected and appointed officials or employees should contact the heads of their agencies for copies of the form or download it from www.ethics.state.fl.us, as should those persons who are required to file their final disclosure statements within 60 days of leaving office or employment.

ELECTED CONSTITUTIONAL OFFICERS, OTHER STATE OFFICERS, and SPECIFIED STATE EMPLOYEES who must file annually FORM 1 or 6 will be sent these forms by mail from the Commission on Ethics by JUNE 1 of each year. Newly elected and appointed officers and employees should contact the heads of their agencies or the Commission on Ethics for copies of the form or download it from www.ethics.state.fl.us, as should those persons who are required to file their final disclosure statements within 60 days of leaving office or employment.

Any person needing one or more of the other forms described here may also obtain them from a Supervisor of Elections or from the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709. They are also available on the Commission's website: www.ethics.state.fl.us.

V. PENALTIES

A. Non-criminal Penalties for Violation of the Sunshine Amendment and the Code of Ethics

There are no criminal penalties for violation of the Sunshine Amendment and the Code of Ethics. Penalties for violation of these laws may include: impeachment, removal from office or employment, suspension, public censure, reprimand, demotion, reduction in salary level, forfeiture of no more than one-third salary per month for no more than twelve months, a civil penalty not to exceed $10,000, and restitution of any pecuniary benefits received, and triple the value of a gift from a political committee.

B. Penalties for Candidates

CANDIDATES for public office who are found in violation of the Sunshine Amendment or the Code of Ethics may be subject to one or more of the following penalties: disqualification from being on the ballot, public censure, reprimand, or a civil penalty not to exceed $10,000, and triple the value of a gift received from a political committee.

C. Penalties for Former Officers and Employees

FORMER PUBLIC OFFICERS or EMPLOYEES who are found in violation of a provision applicable to former officers or employees or whose violation occurred prior to such officer's or employee's leaving public office or employment may be subject to one or more of the following penalties: public censure and reprimand, a civil penalty not to exceed $10,000, and restitution of any pecuniary benefits received, and triple the value of a gift received from a political committee.

D. Penalties for Lobbyists and Others

An executive branch lobbyist who has failed to comply with the Executive Branch Lobbying Registration law (see Part VIII) may be fined up to $5,000, reprimanded, censured, or prohibited from lobbying executive branch agencies for up to two years. Lobbyists, their employers, principals, partners, and firms, and political committees and committees of continuous existence who give a prohibited gift

or honorarium or fail to comply with the gift reporting requirements for gifts worth between $25 and $100, may be penalized by a fine of not more than $5,000 and a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the public officer or employee to whom the gift was given for up to two years. Any agent or person acting on behalf of a political committee giving a prohibited gift is personally liable for a civil penalty of up to triple the value of the gift.

Executive Branch lobbying firms that fail to timely file their quarterly compensation reports may be fined $50 per day per principal for each day the report is late, up to a maximum fine of $5,000 per report.

E. Felony Convictions: Forfeiture of Retirement Benefits

Public officers and employees are subject to forfeiture of all rights and benefits under the retirement system to which they belong if convicted of certain offenses. The offenses include embezzlement or theft of public funds; bribery; felonies specified in Chapter 838, Florida Statutes; impeachable offenses; and felonies committed with intent to defraud the public or their public agency. [Sec. 112.3173, Fla. Stat.]

F. Automatic Penalties for Failure to File Annual Disclosure

Public officers and employees required to file either Form 1 or Form 6 annual financial disclosure are subject to automatic fines of $25 for each day late the form is filed after September 1, up to a maximum penalty of $1,500. [Sec. 112.3144 and 112.3145, Fla. Stat.]

VI. ADVISORY OPINIONS

Conflicts of interest may be avoided by greater awareness of the ethics laws on the part of public officials and employees through advisory assistance from the Commission on Ethics.

A. Who Can Request an Opinion

Any public officer, candidate for public office, or public employee in Florida who is in doubt about the applicability of the standards of conduct or disclosure laws to himself or herself, or anyone who has the power to hire or terminate another public employee, may seek an advisory opinion from the Commission about himself or herself or that employee.

B. How to Request an Opinion

Opinions may be requested by letter presenting a question based on a real situation and including a detailed description of the situation. Opinions are issued by the Commission and are binding on the conduct of the person who is the subject of the opinion, unless material facts were omitted or misstated in the request for the opinion. Published opinions will not bear the name of the persons involved unless they consent to the use of their names; however, the request and all information pertaining to it is a public record, made available to the Commission and to members of the public in advance of the Commission's consideration of the question.

C. How to Obtain Published Opinions

All of the Commission's opinions are available for viewing or download at its website: www.ethics.state.fl.us.

VII. COMPLAINTS

A. Citizen Involvement

The Commission on Ethics cannot conduct investigations of alleged violations of the Sunshine Amendment or the Code of Ethics unless a person files a sworn complaint with the Commission alleging such violation has occurred, or a referral is received, as discussed below.

If you have knowledge that a person in government has violated the standards of conduct or disclosure laws described above, you may report these violations to the Commission by filing a sworn complaint on the form prescribed by the Commission and available for download at www.ethics.state.fl.us. The Commission is unable to take action based on learning of such misdeeds through newspaper reports, telephone calls, or letters.

You can obtain a complaint form (FORM 50), by contacting the Commission office at the address or phone number shown on the inside front cover of this booklet, or you can download it from the Commission's website:
www.ethics.state.fl.us.

B. Referrals

The Commission may accept referrals from: the Governor, the Florida Department of Law Enforcement, a State Attorney, or a U.S. Attorney. A vote of six of the Commission's nine members is required to proceed on such a referral.

C. Confidentiality

The complaint or referral, as well as all proceedings and records relating thereto, is confidential until the accused requests that such records be made public or until the matter reaches a stage in the Commission's proceedings where it becomes public. This means that unless the Commission receives a written waiver of confidentiality from the accused, the Commission is not free to release any documents or to comment on a complaint or referral to members of the public or press, so long as the complaint or referral remains in a confidential stage.

A COMPLAINT OR REFERRAL MAY NOT BE FILED WITH RESPECT TO A CANDIDATE ON THE DAY OF THE ELECTION, OR WITHIN THE 30 CALENDAR DAYS PRECEDING THE ELECTION DATE, UNLESS IT IS BASED ON PERSONAL INFORMATION OR INFORMATION OTHER THAN HEARSAY.

D. How the Complaint Process Works

Complaints which allege a matter within the Commission's jurisdiction are assigned a tracking number and Commission staff forwards a copy of the original sworn complaint to the accused within five working days of its receipt. Any subsequent sworn amendments to the complaint also are transmitted within five working days of their receipt.

Once a complaint is filed, it goes through three procedural stages under the Commission's rules. The first stage is a determination of whether the allegations of the complaint are legally sufficient: that is, whether they indicate a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally sufficient, the Commission will order that the complaint be dismissed without investigation, and all records relating to the complaint will become public at that time.

In cases of very minor financial disclosure violations, the official will be allowed an opportunity to correct or amend his or her disclosure form. Otherwise, if the complaint is found to be legally sufficient, a preliminary investigation will be undertaken by the investigative staff of the Commission. The second stage of the Commission's proceedings involves this preliminary investigation and a decision by the Commission as to whether there is probable cause to believe that there has been a violation of any of the ethics laws. If the Commission finds no probable cause to believe there has been a violation of the ethics laws, the complaint will be dismissed and will become a matter of public record. If the Commission finds probable cause to believe there has been a violation of the ethics laws, the complaint becomes public and usually enters the third stage of proceedings. This stage requires the Commission to decide whether the law was actually violated and, if so, whether a penalty should be recommended. At this stage, the accused has the right to request a public hearing (trial) at which evidence is presented or the Commission may order that such a hearing be held. Public hearings usually are held in or near the area where the alleged violation occurred.

When the Commission concludes that a violation has been committed, it issues a public report of its findings and may recommend one or more penalties to the appropriate disciplinary body or official.

When the Commission determines that a person has filed a complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations, the complainant will be liable for costs plus reasonable attorney's fees incurred by the person complained against. The Department of Legal Affairs may bring a civil action to recover such fees and costs, if they are not paid voluntarily within 30 days.

E. Dismissal of Complaints At Any Stage of Disposition

The Commission may, at its discretion, dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the Commission will issue a public report stating with particularity its reasons for the dismissal. [Sec. 112.324(12), Fla. Stat.]

F. Statute of Limitations

All sworn complaints alleging a violation of the Sunshine Amendment or the Code of Ethics must be filed with the Commission within five years of the alleged violation or other breach of the public trust. Time starts to run on the day AFTER the violation or breach of public trust is committed. The statute of limitations is tolled on the day a sworn complaint is filed with the Commission. If a complaint is filed and the statute of limitations has run, the complaint will be dismissed. [Sec. 112.3231, Fla. Stat.]

VIII. EXECUTIVE BRANCH LOBBYING

Any person who, for compensation and on behalf of another, lobbies an agency of the executive branch of state government with respect to a decision in the area of policy or procurement may be required to register as an executive branch lobbyist. Registration is required before lobbying an agency and is renewable annually. In addition, each lobbying firm must file a compensation report with the Commission for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. As noted above, no executive branch lobbyist or principal can make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 can knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.]

Paying an executive branch lobbyist a contingency fee based upon the outcome of any specific executive branch action, and receiving such a fee, is prohibited. A violation of this prohibition is a first degree misdemeanor, and the amount received is subject to forfeiture. This does not prohibit sales people from receiving a commission. [Sec. 112.3217, Fla. Stat.]

Executive branch departments, state universities, community colleges, and water management districts are prohibited from using public funds to retain an executive branch (or legislative branch) lobbyist, although these agencies may use full-time employees as lobbyists. [Sec. 11.062, Fla. Stat.]

Online registration and filing is available at www.floridalobbyist.gov. Additional information about the executive branch lobbyist registration system may be obtained by contacting the Lobbyist Registrar at the following address:

Executive Branch Lobbyist Registration
Room G-68, Claude Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1425
Phone: 850/922-4987

IX. WHISTLE-BLOWER'S ACT

In 1986, the Legislature enacted a "Whistle-blower's Act" to protect employees of agencies and government contractors from adverse personnel actions in retaliation for disclosing information in a sworn complaint alleging certain types of improper activities. Since then, the Legislature has revised this law to afford greater protection to these employees.

While this language is contained within the Code of Ethics, the Commission has no jurisdiction or authority to proceed against persons who violate this Act. Therefore, a person who has disclosed information alleging improper conduct governed by this law and who may suffer adverse consequences as a result should contact one or more of the following: the Office of the Chief Inspector General in the Executive Office of the Governor; the Department of Legal Affairs; the Florida Commission on Human Relations; or a private attorney. [Sec. 112.3187 - 112.31895, Fla. Stat.]

X. ADDITIONAL INFORMATION

As mentioned above, we suggest that you review the language used in each law for a more detailed understanding of Florida's ethics laws. The "Sunshine Amendment" is Article II, Section 8, of the Florida Constitution. The Code of Ethics for Public Officers and Employees is contained in Part III of Chapter 112, Florida Statutes.

Additional information about the Commission's functions and interpretations of these laws may be found in Chapter 34 of the Florida Administrative Code, where the Commission's rules are published, and in The Florida Administrative Law Reports, which until 2005 published many of the Commission's final orders. The Commission's rules, orders, and opinions also are available at www.ethics.state.fl.us.

If you are a public officer or employee concerned about your obligations under these laws, the staff of the Commission will be happy to respond to oral and written inquiries by providing information about the law, the Commission's interpretations of the law, and the Commission's procedures.

XI. TRAINING

Constitutional officers and elected municipal officers are required to receive a total of four hours training, per calendar year, in the area of ethics, public records, and open meetings. The Commission on Ethics does not track compliance or certify providers.

Visit the training page on the Commission's website for up-to-date rules, opinions, audio/video training, and opportunities for live training conducted by Commission staff. A comprehensive online training course addressing Florida's Code of Ethics, as well as Sunshine Law, and Public Records Act is available via a link on the Commission's homepage.

FIREFIGHTER
(Hourly)

DEFINITION: This is fire service work.

NATURE OF WORK:

An employee in this class is responsible for performing a variety of firefighting tasks. Positions in this class require the performance of physically demanding work involving fire suppression and the provision of emergency medical care. Work is frequently performed under conditions where personal injury or injury to others can occur; employees must be capable of reacting with speed and composure under these conditions and must exercise some initiative and independent judgment in determining proper actions to take. Under general supervision, employees are required to participate in training and/or station drills in order to maintain and increase proficiency in skills necessary to perform assigned duties. Work is performed on a 24-hour shift, including weekends and holidays and is reviewed through observation and results obtained.

EXAMPLES OF DUTIES:

Searches structures to locate persons trapped or injured, obtain information on source, extent or spread of fire, and determine structural stability and possible hazards; removes burning objects from structure; uses hand and power tools to ventilate structure; positions and climbs ladders; pulls hose from truck, connects and operates or aids firefighter who is operating hose; extricates victims from damaged motor vehicles; administers first aid; performs driver engineer's job when required; salvages property from damaged structures; restores order and security of damaged structures.

Performs cardiopulmonary resuscitation (CPR) and other emergency medical procedures; might take individual's vital signs, records and evaluate to determine status; assists in preparing individuals for transport and accompanies to hospital.

Participates in area surveys; maintains and updates records on persons; buildings, construction in progress, and any other information necessary to effectively provide assistance.

Participates in station drills or other training to keep up-to-date on necessary skills; performs duties such as watch, apparatus/equipment maintenance, and general housekeeping.

Performs related work as required.

DESIRABLE KNOWLEDGES, ABILITIES, AND SKILLS:

Working knowledge of: firefighting and rescue methods and techniques; first aid and CPR techniques; firefighting terminology; characteristics of fire; standard firefighting and rescue tools and equipment and their uses; search and rescue techniques and equipment; the street system and physical layout of the city.

Ability to: perform first aid or CPR; communicate effectively orally, in writing, and by use of hand signals; function efficiently under stressful conditions; lift, carry, and maneuver bulky and moderately heavy equipment; perform work requiring considerable physical exertion under hazardous conditions; work cooperatively and interact effectively with all types of people in a variety of situations; operate a variety of firefighting and rescue equipment.

Skill in: the use and care of all pertinent hand tools and equipment.

MINIMUM REQUIREMENTS:

- Graduation from an accredited high school or equivalency certificate as issued by the Florida State Board of Education.
- Possession of Certification as a Firefighter as issued by the State of Florida Fire Marshal's Office.
- EMT-B Certification as issued by the State of Florida Department of Health Bureau of EMS. A State of Florida Paramedic Certificate is required within three (3) years of employment.
- Must be or have applied to be a United States Citizen.
- Must be at least 18 years of age.
- Must satisfactorily pass a comprehensive medical examination administered by a city designated physician.
- Pass a job related physical abilities test.

Comment [KSP1]: This text was moved from Licenses or Certificates portion.

LICENSES OR CERTIFICATES:

- Possession of a valid Florida Class E or higher driver's license.

701100 – Firefighter

Reissued 3/04; Revised 5/07

APPROVED: LS 3/15/04

JOB CLASS: FIREFIGHTER

WORKING CONDITION	RATING	EXPLANATION OF RATING
1. INSIDE	2	MODERATE: Time spent inside
2. OUTSIDE	2	MODERATE: Time spent outside
3. HIGH ELEVATIONS	3	GREAT: Work at high elevations
4. LOW TEMPERATURE	1	LITTLE: Time in low temperature
5. HIGH TEMPERATURE	3	GREAT: Time in high temperature
6. CONFINED/CRAMPED POSITION	1	LITTLE: Work in confined body position
7. SUDDEN TEMPERATURE CHANGES	3	GREAT: Work with sudden temperature changes
8. HIGH HUMIDITY	3	GREAT: Work in high humidity
9. LOW HUMIDITY	2	MODERATE: Work in low humidity
10. WETNESS	3	GREAT: Contact with water
11. AIR PRESSURE	0-1	NONE TO LITTLE: Work in abnormal air pressures
12. NOISE	3	GREAT: Work around loud noises
13. VIBRATION	2	MODERATE: Exposure to vibrations & jerks
14. OILY	1	LITTLE: Use of oil or grease
15. ODORS	IA	Inadequate Agreement
16. BODILY INJURIES	3	GREAT: Possibility of bodily injuries
17. BURNS	3	GREAT: Possibility of burns
18. ELECTRICAL HAZARDS	3	GREAT: Possibility of shock
19. EXPLOSIVES	3	GREAT: Work with explosives
20. SLIPPERY SURFACES	2-3	MODERATE TO GREAT: Contact with slippery surfaces
21. RADIOACTIVE SUBSTANCES	1-2	LITTLE TO MODERATE: Exposure to radiation
22. INFRARED RADIANCE	1-2	LITTLE TO MODERATE: Exposure to infrared radiance
23. DUST	IA	Inadequate Agreement
24. SILICA DUST	1-2	LITTLE TO MODERATE: Dust containing silica or asbestos
25. TOXIC CONDITIONS	3	GREAT: Exposure to toxic fumes, liquids or gasses
26. INFECTIONS	2-3	MODERATE TO GREAT: Exposure to infections
27. MOVING OBJECTS	3	GREAT: Possibility of injury from moving objects
28. CHEMICAL IRRITANT	2-3	MODERATE TO GREAT: Work with chemical irritants
29. ALLERGENIC	1-2	LITTLE TO MODERATE: Exposure to common allergies
30. WORKING WITH OTHERS	3	GREAT: Association with others
31. RESPONSIBILITY FOR PERSONS	3	GREAT: Responsibility for welfare of others
32. JOB COMPLEXITY	2	MODERATE: Lack of clarity of job
33. ROLE AMBIGUITY	1-2	LITTLE TO MODERATE: Unclear expectations of others
34. IRREGULAR OR EXTENDED WORK HOURS	IA	Inadequate Agreement

POLICE OFFICER
(Hourly)

DEFINITION: This is police work.

NATURE OF WORK:

An employee in this class is responsible for performing tasks of average difficulty involving the protection of life and property. After completion of an initial training period, the employee is responsible for enforcing federal, state and local laws, and performing related police activities. Involved are patrolling an assigned area on foot or in a radio equipped vehicle and performing administrative, public information and/or complaint duties. Under general supervision of a sergeant or other police supervisor, the employee is required to exercise initiative and independent judgment as well as tact, courtesy and self-control in performance of duties. The employee is also expected to make decisions calmly and quickly in emergency or hazardous situations. Some positions may include training other police officers when assigned as a field instructor, or receiving in-service training in preparation for promotion or special assignment. Most positions require the employee to work on shifts including nights, weekends and holidays with rotating days off. Work is reviewed through reports submitted, observation and results obtained.

EXAMPLES OF DUTIES:

When assigned to uniform districts: initiates preliminary investigation of incidents requiring police action; preserves the crime scene; renders first aid; interrogates subjects and witnesses; searches for and arrests offenders; records all relevant facts; appears in court; inspects every area of assigned beat as often as possible, giving particular attention to crime hazard areas; applies knowledge of departmental policies, rules and regulations and standard operating procedures to situations which occur; promptly takes appropriate action against all persons who are seen violating the law; assists persons who are lost, senile or mentally deficient and makes proper dispositions; takes lost, stolen or abandoned property into custody and makes disposition of same; enforces traffic laws and conducts accident investigations; patrols assigned area to eliminate the opportunity for crime to occur; responds to and attempts to settle domestic disturbances or refers individuals involved to appropriate social agency; advises citizens on protection of self and property; maintains an awareness of active felons in assigned area, their whereabouts and methods of operation.

When assigned as a field instructor in the districts: trains recruits in duties of police officers as assigned; evaluates and makes recommendations to squad sergeant regarding recruits' progress and suitability for work; accompanies recruits to court and gives advice relative to court presentation; reviews reports and recommends improvements if needed; insures that recruit is aware of any changes in laws, rules, regulations, and standard operating procedures; recommends end of training period when recruit is considered ready.

When assigned to the selective enforcement unit: participates in crowd and traffic control at major events; assists vice control section in investigation and enforcement activities; utilizes informants in latent investigations; participates in stakeouts and surveillance of burglary and robbery targets in high crime areas; conducts prostitution, gambling and other criminal investigations as required; performs business license application investigations; assists in processing special event permit applications; processes

and investigates requests by alcoholic establishments to employ extra duty officers; works in conjunction with federal, state and other local agencies to coordinate joint police activities; protects political candidates and other dignitaries.

When assigned to marine patrol: enforces navigable water laws within the city limits; makes safety checks for required equipment on all vessels; maintains police boat and all equipment used; aids disabled vessels and passengers; patrols all boat races and sailing regattas.

When assigned to the information desk: assists the public by given general information; verifies ownership of impounded vehicles and gives authorization for release; checks impounded vehicles in the computer for stolen notices; maintains records, makes copies and distributes as necessary.

Performs work related to the purposes of the Department as required.

DESIRABLE KNOWLEDGES, ABILITIES AND SKILLS:

Ability to: learn modern police procedures, methods and terminology; civil and criminal laws, police rules and regulations, and standard operating procedures; learn local geography; learn to perform complete and thorough investigations; analyze problems and objectively deal with people; observe and record incidents clearly and completely and prepare and present clear and concise reports both orally and in writing; act calmly and quickly in emergency and hazardous situations; learn marine laws and life saving techniques, where required; establish and maintain effective working relationships with other officers, supervisors, officials, and the public; instruct and lead other officers and recruits as required; learn skills associated with the use and care of firearms and the operation of motor vehicles.

MINIMUM REQUIREMENTS:
- Possession of an Associate's Degree or completion of 2 years of college coursework from an accredited college or university *(60-semester or 90-quarter hours);* **- OR -**
- High-school diploma and three (3) years of prior law enforcement or corrections experience at a department of medium-to-large size - **OR** -
- High-school diploma and three (3) years of full-time, active military experience; **- OR -**
- High-school diploma and five (5) years of experience as a member of the Tampa Police Department Reserve Force; **OR** -
- An equivalent combination of college education, related work experience, or TPD Reserve Force experience.

LICENSES OR CERTIFICATES:

Possession of a valid Florida driver's license.

*SPECIAL QUALIFICATIONS:

-Must be a U. S. Citizen, at least 21 years of age.
-Must satisfactorily pass a medical examination including a drug screen.

NOTE: Officers are subject to random drug testing after hiring.

7451 - Police Officer

Revised 11/13/92;3/14/95

K:\FORMS\JOB CLASS.POLICE.doc

JOB CLASS: POLICE OFFICER

WORKING CONDITION	RATING	EXPLANATION OF RATING
1. INSIDE	1	MODERATE: Time spent inside
2. OUTSIDE	3	MODERATE: Time spent outside
3. HIGH ELEVATIONS	0	GREAT: Work at high elevations
4. LOW TEMPERATURE	1	LITTLE: Time in low temperature
5. HIGH TEMPERATURE	2	GREAT: Time in high temperature
6. CONFINED/CRAMPED POSITION	1	LITTLE: Work in confined body position
7. SUDDEN TEMPERATURE CHANGES	1-2	GREAT: Work with sudden temperature changes
8. HIGH HUMIDITY	2-3	GREAT: Work in high humidity
9. LOW HUMIDITY	IA	MODERATE: Work in low humidity
10. WETNESS	1	GREAT: Contact with water
11. AIR PRESSURE	0	NONE TO LITTLE: Work in abnormal air pressures
12. NOISE	1-2	GREAT: Work around loud noises
13. VIBRATION	0-1	MODERATE: Exposure to vibrations & jerks
14. OILY	0	LITTLE: Use of oil or grease
15. ODORS	1-2	Inadequate Agreement
16. BODILY INJURIES	IA	GREAT: Possibility of bodily injuries
17. BURNS	0-1	GREAT: Possibility of burns
18. ELECTRICAL HAZARDS	0	GREAT: Possibility of shock
19. EXPLOSIVES	0	GREAT: Work with explosives
20. SLIPPERY SURFACES	1	MODERATE TO GREAT: Contact with slippery surfaces
21. RADIOACTIVE SUBSTANCES	0	LITTLE TO MODERATE: Exposure to radiation
22. INFRARED RADIANCE	0	LITTLE TO MODERATE: Exposure to infrared radiance
23. DUST	1-2	Inadequate Agreement
24. SILICA DUST	0-1	LITTLE TO MODERATE: Dust containing silica or asbestos
25. TOXIC CONDITIONS	0-1	GREAT: Exposure to toxic fumes, liquids or gasses
26. INFECTIONS	1	MODERATE TO GREAT: Exposure to infections
27. MOVING OBJECTS	3	GREAT: Possibility of injury from moving objects
28. CHEMICAL IRRITANT	0	MODERATE TO GREAT: Work with chemical irritants
29. ALLERGENIC	2	LITTLE TO MODERATE: Exposure to common allergies
30. WORKING WITH OTHERS	3	GREAT: Association with others
31. RESPONSIBILITY FOR PERSONS	3	GREAT: Responsibility for welfare of others
32. JOB COMPLEXITY	2	MODERATE: Lack of clarity of job
33. ROLE AMBIGUITY	1	LITTLE TO MODERATE: Unclear expectations of others
34. IRREGULAR OR EXTENDED WORK HOURS	3	Inadequate Agreement

Glossary of Basic
Trustee Terms

active manager – a portfolio manager who takes an active role in security selection and risk management in an attempt to improve a portfolio's risk-adjusted return or reduce an issuer's cost of capital. Contrast with Passive Manager.

actuarial asset value – a value of the plan's assets established for the purpose of determining annual funding cost.

actuarial assumptions – estimates of future events; such as payroll growth, annual salary increases, inflation, investment returns, mortality, termination of employment, etc.

actuarial impact statement – a report prepared by an actuary that describes changes to the provisions of a pension plan and the associated costs to properly fund these changes in the benefits.

actuarial liability – the excess of the present value of the future benefits and administrative expenses over the present value of future contributions for the normal cost for all plan participants and their beneficiaries.

actuarial valuation – a report prepared by an actuary that calculates the liabilities, net assets available for benefits and the associated cost to properly fund the plan benefits.

actuary – a statistician who computes insurance or pension risks and the required funding.

ADR – American Depository Receipt, a security issued by a U.S. bank in place of the foreign shares held in trust by that bank, thereby facilitating the trading of foreign shares in US markets. These are still considered to be a foreign security.

agency – any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law and any other public or private agency, person, partnership, corporation or business entity acting on behalf of any public agency.

aggressive – an investment approach that takes higher risks in return for potentially higher rewards.

annualized rate of return – the average rate of return over a period of years, taking into account the effect of compounding. Also called the compound growth rate. For example, a 100% return over five years is equivalent to an annualized rate of return of 14.87% per year.

AMEX – American Stock Exchange

Glossary of Basic
Trustee Terms

annuity – an investment made (usually through an insurance company) that guarantees a fixed or variable series of payments, usually at retirement. Lump-sum withdrawals made prior to age 59 1/2 may be subject to a 10% IRS penalty.

appreciation – an increase in the basic value of an investment.

arbitration – a system for resolving disputes between two or more parties who submit their disagreement to an impartial panel. Decisions of the panel are binding.

asset – anything of economic value that is owned by a firm or individual.

asset allocation – the types and quantities of assets that a plan will hold in its investment portfolio, based upon the required rate of return for the assets of the fund and the desired, or acceptable, level of risk that the plan is willing to withstand.

- Strategic – Long-term decisions, based on investment and actuarial assumptions
- Tactical – Short / intermediate term decisions, based on market opportunities

auditor's report – the statement of an independent accounting firm's work and its opinion of the entity's financial statements, especially if they conform to the normal and generally accepted accounting principles.

average final compensation – an amount calculated using retirement creditable earnings for a period of time specified by law.

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balance sheet – a condensed financial statement showing the nature and amount of an entity's assets, liabilities and capital as of a given date.

balanced fund – a fund that seeks both growth and income, with stability of principal, through a portfolio that includes both stocks and bonds.

basis points – 1/100 of one percent. 100 basis points equals one percent.

bear market – a prolonged period of declining stock prices.

beneficiary – a recipient of proceeds from a qualified retirement plan or insurance policy upon the death of the registered owner.

Glossary of Basic
Trustee Terms

benefit accrual rate – the percentage of a participant's average final compensation earned for each year of credited service.

beta (β) – measure of a portfolio or security's sensitivity to changes in an index

- $\beta>1$ portfolio moves more than index
- $\beta<1$ portfolio moves less than index
- $\beta=1$ portfolio moves in unison with index

blue chip – a high-quality, relatively low-risk investment; the term usually refers to stocks of large, well-established companies that have performed well over a long period.

board of trustees – the group of elected/appointed individuals which shall be fiduciarily responsible for administering a pension plan or retirement system trust fund.

bond – a debt security, or IOU, issued by a government or a corporation. By its terms, it pays interest and returns the face value on the maturity date. Income funds invest primarily in bonds. Bond prices vary inversely with interest rates – interest rates go up, bond prices fall.

broker – a representative who handles transactions related to investors' orders to buy and sell securities.

bull market – a prolonged period of rising stock prices.

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calendar year – the period of time beginning January 1 and ending on the following December 31.

capital – the wealth of a business or an individual in terms of money or property.

capital appreciation – a rise in principal value of a security.

capital gain / loss – the gain or loss realized when a security is sold for more or less than the original purchase price.

cash equivalent – a short-term money market instrument, such as a Treasury bill or repurchase agreement, of such high liquidity and safety that it is virtually as good as cash.

caveat emptor – Latin phrase meaning "Let the buyer beware."

certificate of deposit (CD) – a receipt for funds that have been deposited in a bank for a specific period of time at a fixed rate of interest. A CD is generally guaranteed by the FDIC. Early withdrawal results in a penalty. CD's also may be issued by a corporation; these are not guaranteed by the FDIC.

Glossary of Basic
Trustee Terms

CFP – Certified Financial Planner, an individual who has completed the educational requirements of the International Board of Certified Financial Planners (IBCFP) which covers all facets of financial planning from taxes to investments.

chapter plan – a locally administered defined benefit pension plan for firefighters or police officers which incorporates by reference the provisions of Chapter 175 or 185, respectively, and has been adopted by the governing body of a municipality or special district. Chapter Plan provisions do not vary from the provisions set forth in Chapters 175/185, except as specifically authorized by these Chapters.

city code – a three-digit numerical code used to identify participating Chapter 175 and 185 cities or special districts.

closed plan – a pension plan that no longer accepts new members.

common stock – units of ownership in a public corporation. Also called equity, or simply, stock. Common stock may or may not pay regular dividends.

compounding – interest paid on interest, resulting in a geometric rate of increase on the initial principal. For example, a $100 investment that earns 5% generates $5 per year. With compounding, it would generate $5 the first year, making a new basis of $105; then $5.25 the next year, for a basis of $110.25; $5.51 the next year; and so on. In a mutual fund, reinvesting dividends and capital gains takes advantage of the power of compounding.

comprehensive annual financial report (CAFR) – a consolidated presentation of an entity's audited financial statements and operating activities for a specified period.

conservative – a cautious approach to investing that assumes minimal risk to seek a moderate return.

consumer price index (CPI) – the change in consumer prices determined monthly by the U.S. Bureau of Labor Statistics, often cited as a general measure of inflation.

contribution – a payment for pension funding.

contribution rate – the percentage of wages or compensation that is required for pension funding.

contributory plan – an employee benefit plan under which participants bear all or part of the cost.

convertible bond – a bond than an owner can exchange for stock before maturity.

Glossary of Basic
Trustee Terms

cost of living adjustment (COLA) – wage or benefit increase intended to offset the effects of inflation.

currency risk - the risk of an investment's value changing because of currency exchange rate fluctuations.

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debt – an obligation to pay.

deep discount bond – see zero coupon bond.

deferred retirement option plan (DROP) – a method of payment whereby the participant retires for pension purposes and elects to defer receipt of retirement benefits for a specified and limited period while continuing employment.

defined benefit pension plan (DB) – a pension plan that provides a promise to pay to participants specified benefits that are determinable and are based on one or more factors such as age, years of service, compensation and/or benefit rate.

defined contribution pension plan (DC) – a pension plan that provides an individual account for each participant and provides benefits that are based on amounts contributed to the participant's account by the employer and the employee; investment experience; and any forfeitures allocated to the account, less any administrative expenses charged to the plan.

depreciation – decrease in the basic value of an investment.

derivatives – financial instruments whose value is derived from the value of some other investment(s) or criteria.

disability – a physical or mental impairment which results in the inability to pursue an occupation.

discount – sale of a bond at a price less than face value.

diversification – spreading investment funds among different types of investments and industries for the purpose of increasing return and / or reducing risk.

dividend – payment received by stockholders from the earnings of a corporation.

division of retirement – the state agency statutorily responsible for administering or overseeing public retirement systems and programs within the State of Florida.

dollar cost averaging – investing the same fixed dollar amount in the same investment at regular intervals over a long period of time.

Glossary of Basic
Trustee Terms

Dow Jones Industrial Average (DJIA) – the most commonly used indicator of historical stock-market performance, a price weighted average based on the prices of 30 actively traded major industrial companies determined from the NYSE industrials. This often is simply called "the Dow." It is an unmanaged index.

duration – a measure of fixed income price volatility calculated by combining size and timing of interest and principal payments. The longer the duration, the more sensitive the issue will be to changes to interest rates.

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early retirement benefit – the benefit payable immediately to a member of a pension plan or retirement system that is reduced because the member retired before the normal retirement age or date.

early retirement factor – the percentage by which a benefit will be reduced for each month the retirement date precedes normal retirement age or date.

earnings gain/loss – the difference between your beginning balance and your ending balance that is due to investment performance, which includes market value fluctuation and (if not shown separately) interest and dividends.

effective date – the date upon which a contract, obligation, resolution or ordinance becomes binding.

electronic fund transfer (EFT) – the transmittal of currency using an automated clearinghouse.

employee contributions – pension funding paid by the employee, usually expressed as a percentage of covered wages.

employer contribution – pension funding paid by employer, usually expressed as a percentage of covered wages.

enrolled actuary – an actuary who is a member of the Society of Actuaries or the American Academy of Actuaries and who is enrolled under subtitle C of the Employee Retirement Income Security Act of 1974.

equity – the ownership interest of common and preferred stock holders in a company.

ERISA – the Employee Retirement Income Security Act of 1974 that created rules designed to protect the interests of workers who participate in employee benefit plans and their beneficiaries. Governmental plans, including those of state and local governments, are generally **not** subject to the requirements of ERISA.

Glossary of Basic
Trustee Terms

exchanges – marketplaces for transactions such as the New York Stock Exchange (NYSE), the American Stock Exchange (AMEX), the NASDAQ and the Chicago Board of Trade.

face value – the amount a bond is worth at maturity.

fair value – the amount that could reasonably be expected to be received in a current sale between a willing buyer and a willing seller. It should be measured by the quoted market price if there is an active market for the investment.

fannie mae (FNMA) – Federal National Mortgage Association

FDIC – Federal Deposit Insurance Corporation, an agency of the federal government created to guarantee bank deposits.

fiduciary – a person or group of persons that provides advice or service to a retirement plan or system, with the duty to act primarily for the benefit of the plan or system in all matters connected with its operation.

fiscal year – an accounting period of 365 days (366 in leap years) for which an entity prepares financial statements and performance data. Not necessarily the same as the calendar year (January 1 through December 31).

fixed-income securities – another name for bonds, notes, money market instruments, investment contracts, and preferred stock. All of these pay a preset or "fixed" rate of interest.

Florida Administrative Code (FAC) – rules and regulations of Florida regulatory agencies filed with the Department of State under the provisions of Chap.120, F.S. .

Florida Retirement System (FRS) – the system established by chapter 121 to provide retirement benefits under the following classes and programs: The Regular, Special Risk, Special Risk Administrative Support, Senior Management Service, and Elected State and County Officers' Classes; and the State University System Optional Retirement Program and the Senior Management Service Optional Annuity Program.

foot – the summation of a group or column of numbers.

fraud – the art of deceiving or misrepresenting the truth.

full-service brokers – people who buy and sell securities or commodities to investors and offer information and advice.

Glossary of Basic
Trustee Terms

fund balance – the residual amount available after reducing net plan assets by total liabilities and adjusting for excess of revenue over expenditures (a.k.a. net plan assets available for benefits).

futures contract – a legal commitment to buy or sell a commodity at a specific future date and price.

GASB-5 disclosure statement – disclosure of pension information by public employee retirement systems and state and local governmental employers; required to be included with audited financial statements for the reporting entity.

ginnie mae (GNMA) – Government National Mortgage Association

global fund – a mutual fund that normally invests in at least three foreign countries.

government security – any debt obligation issued by the U.S. government or its agencies. Certain securities, such as Treasury bonds and Ginnie Maes, are backed by the government as to both principal and interest payments. Other securities, such as those issued by the Federal Home Loan Mortgage Corporation, or Freddie Mac, are backed by the issuing agency.

governmental accounting standards board (GASB) – organized in 1984 by the Financial Accounting Foundation to establish standards of financial accounting and reporting for state and local governmental entities. Its standards guide the preparation of external financial reports of those entities.

growth and income fund – a fund that invests in stocks and fixed income securities that pay dividends and have the potential to grow in value. The fund may also invest in bonds.

growth fund – a fund that invests mostly in growth stocks, with the goal of producing appreciation in the value of the stock as opposed to income.

guaranteed insurance contract (GIC) – investment similar to a CD, but issued by an insurance company.

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high-yield bond – a bond that pays a relatively high rate of interest (generally associated with a high level of risk). They are generally issued by entities whose debt securities have been given noninvestment-grade ratings, according to rating agencies. These noninvestment-grade bonds are sometimes referred to as "junk bonds."

historical cost – the amount paid for the acquisition of an asset at the time of purchase.

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Trustee Terms

impact statement – a statement setting forth the actuarial liabilities and contribution requirements of a proposed change in the provisions of a retirement system or pension plan, certified by an enrolled actuary.

income fund – a fund that invests mostly in bonds or income producing stocks.

income statement – a financial statement that summarizes the revenues and expenses of an entity for a period ended as of a specific date.

index – a benchmark against which to measure performance, such as Standard & Poor's 500 Index.

individual retirement account (IRA) – a tax deferred retirement savings account.

inflation – a general rise in prices of goods and services. This reduces the purchasing power of money.

initial public offering (IPO) – a private company's first public offering of common stock.

in-line-of-duty – in the actual performance of the duties required by the member's employer.

insider trading – the illegal use of investment information not generally known to the public.

institutional investor – an organization whose primary purpose is to invest its own assets ot those held in trust by it for others. Includes pension funds, investment companies, insurance companies, universities and banks.

instruments – legal documents that define the provisions of a pension plan or retirement system..

insured plan – a plan that is funded by annuity contracts purchased from an insurance company, generally supported by annual contributions.

interest – cost of borrowing money, expressed as a rate of interest per period of time. For example, one year's interest rate is called an annual rate of interest.

investment company – a company that invests in other companies. Each open-end and closed-end fund is actually a separate investment company owned by its shareholders and governed by rules established in the Investment Company Act of 1940. An investment company combines the money from a number of investors and then invests the money in a large, diversified portfolio. A mutual fund.

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Trustee Terms

investment contract (GIC) – an interest-paying contract typically issued by an insurance company, bank, or similar type of financial institution. The interest and principal are guaranteed by the issuing company.

investment objective – the goal an investor or a mutual fund seeks to accomplish. Investment objectives include current income, capital appreciation, capital preservation or a combination thereof.

investment-grade bond – a class of bond suitable for purchase by prudent investors. Standard & Poor's and Moody's Investors Service designate bonds in their top four categories (AAA/Aaa,AA/Aa,A, and BBB/Baa) as investment grade.

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joint annuitant – a spouse or dependent who is eligible to receive continuing benefits upon the death of the member.

junk bonds – another name for high-yield bonds with below investment grade ratings.

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leverage – to enhance an entity's economic position / gain through the use of borrowed funds.

liability – claims against the assets of a corporation.

limited partnership – an investment vehicle formed of a general partner (with unlimited liability) and limited partners (with limited liability, generally the investors). Limited partners generally exercise no control.

liquidity – the ease with which an investment can be converted into cash.

load fund – a mutual fund purchased directly by the public that charges a sales commission when bought or sold.

local law plan – a locally administered defined benefit pension plan for firefighters or police officers, established by municipal ordinance, special district resolution, or special act of the Legislature, which enactment sets forth all plan provisions. Local Law plan provisions may vary from the provisions of Chapters 175/185, F.S., provided that certain minimum benefits and standards are met.

long-term investment strategy – a strategy that looks past the day-to day fluctuations of the stock and bond markets and responds to fundamental changes in the financial markets or the economy.

lump-sum distribution – a withdrawal of the entire value of a pension plan benefit.

Glossary of Basic
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market capitalization (market cap) – number of shares times price per share.

market price – the price the seller will accept and the buyer will pay.

market timing – a strategy of buying or selling securities in anticipation of changes in market or economic conditions.

market value (assets) – see **fair value.**

maturity – a measure of the length of a bond's life, expressed in years, based on the date on which payment of the principal is due.

- Short term – One year or shorter
- Intermediate Term – One to ten years
- Long term – More than ten years

money manager – a person or company responsible for investing the assets of an entity.

money market fund – a mutual fund designed to provide safety of principal and current income by investing in securities that mature in one year or less, such as bank certificates of deposit, commercial paper, and U.S. Treasury bills. Money market funds have the lowest risk of any type of mutual fund.

mortality tables – statistical data, used by an actuary, to project life expectancy for the calculation of benefit payments.

municipal bond –an IOU issued by a state, city, or other municipality to finance public works such as the construction of roads or schools. The interest is usually free from federal income tax and may be free from state and local taxes as well.

mutual fund – an investment of the pooled money of shareholders in various types of investments. The advantages of mutual funds include professional management, diversification, convenience, and ease of recordkeeping. Mutual funds come in many different types. Some invest only in short-term money market instruments, some in stocks or bonds, and some in a variety of securities. Mutual funds are not federally insured and may involve a loss of principal.

NASD – National Association of Securities Dealers, the securities industry's largest self-regulatory agency. Parent corporation of NASD Regulation and The NASDAQ Stock Market.

NASDAQ – a nationwide electronic system established by the NASD for up-to-the-minute price quotations and trading on over 5,000 over-the-counter stocks.

Glossary of Basic
Trustee Terms

NASDAQ Composite Index – market value weighted index measuring over 5,000 NASDAQ listed common stocks.

net asset value (NAV) – market value of one share of a mutual fund, not including the sales charge.

net assets available for benefits – see fund balance.

no-load fund – a mutual fund purchased directly by the public; does not have a charge for buying or selling.

noncontributory plan – an employee benefit plan under which participants do not make contributions.

normal retirement benefit – the benefit payable to a member of a pension plan or retirement system after meeting the criteria for an unreduced benefit.

normal retirement date – the date a member becomes fully vested and is eligible to receive a retirement benefit which is not reduced because the pension plan or retirement system requirements have been met.

NYSE – New York Stock Exchange

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odd lot – a unit of less than 100 shares of stock.

option – the right to buy (call) or sell (put) a fixed amount of a given stock at a specified price within a limited period of time.

opt-out employer – any municipality, special district, or hospital that elected to cease participation in the FRS as of 1/1/96 for future employees. Employees as of 12/31/95 remain members of the FRS.

over-the-counter market (OTC) – a market in which stocks are traded by telephone and computer networks (e.g., the NASDAQ) rather than on the floor of a major stock exchange (e.g., the NYSE). Many OTC stocks represent shares in new, growing companies.

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p/e ratio – price/earnings ratio, the price of a stock divided by per share earnings. A figure used to evaluate the value of a stock. Also referred to as the "multiple," that is the number of times by which the company's latest 12-month earning must be multiplied to obtain the current stock price.

Glossary of Basic
Trustee Terms

par value – a dollar amount assigned to a share of stock by a company's charter. Bears little relationship to the market value. For bonds, the par value is the face amount, usually $1,000.

passive manager – an asset manager who invests assets in index portfolios or unmanaged portfolio of securities and other instruments without attempting to select individual securities.

penny stocks – high-risk stocks that generally sell for less than about $1, and are not listed and traded on any exchange or stock market. (Con-artists often deal in penny stock frauds).

Pension Benefit Guaranty Corporation (PBGC) – the federal agency that insures and protects pension benefits in certain pension plans. Benefits insured by the PBGC are guaranteed, up to certain legal limits.

pension trust fund – a legal entity used to accumulate and disburse assets in accordance with the terms of the plan. A trustee administers and invests its assets for the plan members.

performance evaluator – a consultant who, based on education and experience, is professionally qualified to evaluate the performance of a professional money manager and who, at a minimum:

- provides his or her services on a flat-fee basis
- is not associated in any manner with the money manager for the pension fund
- makes calculations according to the American Banking Institute method of calculating time-weighted rates of return. All calculations must be made net of fees
- has 3 or more years of experience working in the public sector

pickup contributions – a provision of the Internal Revenue Code whereby the government employer "contributes" to the plan the required employee contributions. There are treated as pre-tax contributions from an income tax perspective. In addition to ordinary income tax, a 10% excise tax is generally payable in the event that the employee withdraws such contributions in a lump sum prior to age 59 ½. See pre-tax contributions.

plan year – the fiscal year used by a plan.

portfolio – all the investments held by an investor (individual, institutional, mutual fund, etc).

preferred stock – a kind of stock that pays a set dividend rate. Most preferred stocks are more like bonds than common stock. It has a higher standing than common stock for collecting dividends and bankruptcy distributions.

Glossary of Basic
Trustee Terms

premium – sale of a bond at a price greater than face value.

premium tax distribution – the disbursement by the Division each June 1st of taxes collected on property and casualty insurance policies as provided in ss. 175.01 and 185.08 F.S., to police and firefighter pension plans.

present value – the value today of a future stream of cash payments after discounting the time value of money.

presumptive language – legislative requirement that a condition or impairment of the health of certain members caused by specified diseases resulting in total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty, unless the contrary may be shown by competent evidence.

pretax contributions – employee contributions to a pension plan or retirement system that are made prior to the withholding of income tax. These amounts are not taxed until they are withdrawn from the plan as either termination or benefit payments. See pickup contributions.

prime rate – the lowest interest rate charged by commercial banks to their most credit worthy and largest (prime) corporate customers. Many other interest rates are derivatives of the prime rate.

principal value – the original value of your investment, apart from any dividends, interest, or gains.

prospectus – legal document describing an investment offered for sale. Required by the SEC prior to being offered to the public.

proxy – a written authorization that allows one person to act for another. For example, shareholders who are unable to attend a corporation's annual meeting may mail in their ballots and vote by proxy.

prudent man rule – an investment standard that requires a trustee to invest in a security if it is one that would be bought by a prudent man of discretion and intelligance, who is seeking a reasonable income and preservation of capital considering the risks and investment objectives.

public records – all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other material, regardless of the physical form, characteristics or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

Glossary of Basic
Trustee Terms

qualified public depository – a bank or savings association that meets all of the requirements of this chapter 280, F.S., and that has been designated by the Treasurer as a qualified public depository.

qualified retirement plan – a program that qualifies for tax deferral and other benefits under rules set by the Internal Revenue Code.

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rate of return – a combination of yield (dividends or interest) and appreciation (increase in basic value of the investment) divided by the average amount of assets available for investment during a set period of time.

rating – an evaluation given by Moody's, Standard and Poor's, Fitch or other rating of a security's creditworthiness. A measure of the likelihood of being paid principal and interest as promised.

	S & P	Moody's
Government	Gov't	Gov't
Corporate		
Highest	AAA	Aaa
High	AA	Aa
Upper Medium	A	A
Low Investment Grade	BBB	Baa
Speculative	BB & B	Ba & B
Poor to default	CCC	Caa

real rate of return – the rate of return after adjusting for the effects of inflation.

realized gain / loss – a gain that is realized when an investment is sold.

repurchase agreement (repo) – an agreement to sell a security generally to a financial institution at an agreed upon interest rate and to buy it back at the same or other agreed upon price at an agreed upon date. Usually these are very short term agreements.

return – the total income from an investment; includes income plus capital gains or minus capital losses.

risk – the possibility of not getting an expected return or losing principal. Standard deviation frequently used as a measure of risk.

risk tolerance – a capacity to endure market price swings in an investment.

Glossary of Basic
Trustee Terms

rollover – amount that can be transferred to another qualified plan or IRA upon leaving an employer.

round lot – 100 shares of one stock.

rule of 72 – a mathematical "rule of thumb" used to determine the length of time needed to double an investment at a given interest rate.

SEC – Securities and Exchange Commission, a federal agency established to license brokerage firms and regulate the securities industry. While the SEC helps curb investment fraud, the individual investor, not the SEC, must judge the worth of the security offered for sale.

securities – a broad range of investment instruments, including stocks, bonds and mutual funds.

settlement – conclusion of a securities transaction when a customer pays a broker/dealer for securities purchased or delivers securities sold and receives from the broker the proceeds of a sale. Similar to "closing" when buying or selling a house.

share – a unit of ownership in an investment.

share plan – a defined contribution plan that augments the retirement benefits received under an existing defined benefit plan. Often primarily supported by the state premium tax distributions under Chapters 175 / 185.

special fire control district – a special district established for the purposes of extinguishing fires and protecting life and property within the incorporated or unincorporated portions of any county or combination of counties.

Standard & Poor's 500 Index – an unmanaged index that represents the investment performance of 500 large stocks in all major industries. The S&P 500 is often used as a measure of the stock market's historical performance. You cannot invest directly in this index.

standard deviation – variability of expected return. Approximately 68% of the time, actual outcome will fall within +/- one standard deviation of the mean or average return. Example, if the 10 year annualized S & P 500 return is 15.29% and the standard deviation is 14.07%, then 68% of the time, the S & P 500 return was between 1.22% and 29.36%, calculated as follows:

15.29% + 14.07% = 29.36%
15.29% - 14.07% = 1.22%

stock – short for common stock, units of ownership in a corporation, usually with voting rights on important company matters; also called a share.

Glossary of Basic
Trustee Terms

stock split – an increase in the number of outstanding shares of a stock or mutual fund with a corresponding adjustment in the share price. A stock split has no effect on the market value or the value of the owner's shares. For example, if a stock selling for $100 per share splits 2 - for - 1, a shareholder with 100 shares worth $10,000 before the split would have 200 shares worth $50 per share after the split, with the same $10,000 value.

street name – when securities are held in the name of the broker rather than the investor.

supplemental plan – a defined benefit plan (sometimes funded entirely through premium tax refunds) that augments the benefits provided by an existing defined benefit plan.

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tax deferral – the ability to postpone taxes through a qualified retirement plan. Tax deferral means that you generally pay no current federal income taxes on any income and earnings on assets invested in a qualified plan until you withdraw funds from the plan. When you make withdrawals from a qualified plan, you must pay income taxes on such withdrawals and a 10% tax penalty if a lump sum withdrawal is made before age 59 ½, excluding after-tax contributions.

taxable distributions – the portion of a payment to a member that is subject to Federal Income Tax and is reported to the Internal Revenue Service on form 1099-R.

tax-exempt investments – investments, which are not subject to, tax on income earned.

total return – the change in value of your investment and reinvested income over time. For example, if your investment paid 5% interest for a year and its principal value went up 5%, your total return is 10%. Essentially, total return measures the actual increase or decrease in the value of an investment, assuming all distributions were reinvested.

treasury bills (t-bills) – short-term IOUs issued by the government to borrow money. These range in maturity from 91 days to one year.

treasury bonds – U.S.government debt with a maturity of more than 10 years is a bond.

treasury notes – U.S.government debt with a maturity of one to 10 years is a note.

trustee – an organization or individual administering property on behalf of others. A trustee acts a fiduciary.

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unfunded actuarial liability (UAL) – the excess of the actuarial liability over the value of the assets of a pension plan.

Glossary of Basic
Trustee Terms

unrealized gains/losses – the change in fair market value of a portfolio attributable to the current period's fluctuations in the value of the securities in the portfolio. An investment that has increased in value, but has not yet been sold, has an "unrealized" gain.

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vested (vesting) – completion of the necessary creditable service to become eligible for a guaranteed future pension benefit.

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yield – interest or dividend generated by the investment, generally calculated as a percentage of the amount invested. (see rate of return)

yield to maturity – the total annual rate of return on a bond when it is held to maturity, considering the purchase price, time to maturity, value at maturity and the annual dollar amount of interest earned.

yield curve – the curve derived from plotting the current interest rate being paid on US Government debt issues covering the shortest to the longest maturity.

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zero coupon bonds – bonds issued for less than face value; they pay no interest income. Return to the investor occurs when the bond is sold or redeemed. Also called deep discount bonds.

401(k) – a special type of tax-qualified retirement plan, named for a section of the Internal Revenue Code that permits employees to save on a pretax basis through payroll deductions. It is also known as a salary reduction plan because the amount you contribute reduces current taxable wages.

Glossary of Basic
Trustee Terms

Investment Options	Yield Range in Recent Years	Financial Risk	Inflation Hedge	Liquidity
Stocks		Med. – High	Good	High
Common	0 – 20%			
Preferred	5 – 9%			
Bonds			None	Varies, Immediate to 30 Years
Municipal	3 – 10%	Low – Med.		
Corporate High Quality	6 – 11%	Low – Med.		
Junk Bonds	8 – 14%	High		
Mutual Funds	0 – 16%	Low – High	Good	High
Real Estate	0 – 20%	Med. – High	Good	Low

Source: Eastern Michigan University, National Institute for Consumer Education

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY, CIVIL ACTION

A. S. CONIGLIO, JR., et al,	)	
Plaintiffs,	)	
vs	)	CASE NO. 77-7389
CITY OF TAMPA, a municipal corporation, et al,	)	DIVISION 'A'
Defendants.	)	

FINAL DECREE

This cause came on for consideration by the Court following a Non-Jury Trial held on February 13, 14 and 15, briefs of counsel submitted on April 23, 1979 and oral arguments presented by counsel for the parties on July 16, 1979.

Prior to trial, the Defendant, CITY OF TAMPA, filed a Motion in Limine and the Court reserved ruling thereon. The Court has examined the issues embraced in the Plaintiff's Complaint and the stipulation and with reference to those particular issues the Motion is granted. However, the Court notes and expressly finds that no testimony presented by the Plaintiff on such issues was subject to a parol evidence objection. Notwithstanding the issues having been stipulated, the Court finds that the Motion in Limine is not granted as to any issues raised by the Defendant in its Counterclaim.

The Court has reviewed the testimony, the evidence and the stipulations of the parties and the arguments of counsel submitted in connection therewith and being fully advised in the premises, makes the following findings, determinations and declarations with reference to the pension contract which is the subject matter of this litigation.

By pre-trial stipulation filed February 16, 1979 the parties stipulated and agreed that the issues to be tried were thirteen in number which the Court will list with its answer, in sequence:

1. May the Board of Trustees of the Firefighters and Police Officers Pension Fund (hereinafter called the "Board") engage independent legal counsel and/or an independent auditor and pay for such services out of the monies of the Pension Fund.

Conclusion: The Board is authorized to engage independent legal counsel in those limited situations where the interests of the city conflict with the interests of the Pension Fund or where the City Attorney refuses to furnish necessary services but it is not authorized to engage an independent auditor.

The Court finds that the question whether the Board is autonomous or not or possesses the power to sue or be sued is not controlling of the issue. The availability of services, policy considerations and the City Charter are controlling. Sec 5(I) of the Pension Plan empowers the Board to "... engage such actuarial and other services as shall be required to transact the business of the pension system". Under Sec 5.01(c) the Internal Audit Department is available for auditing services. Under Sec 5.01(a) the City Attorney is available for legal services. To the extent possible and available, these services must be utilized. Jaynes v Stockton, 14 Cal. Rptr. 49 (Dist. Ct. App. 1961); 62 CJS 1425, Municipal Corporations, Sec. 702. However, in situations where the Office of the City Attorney has a conflict or refuses to act, the Board has the implied authority under the language of Sec 5(I) to obtain other required legal services. For instance, counsel for the Plaintiffs in the case under consideration.

The Auditing Department is not expected to be confronted with disqualifying conflicts similar to those experienced by lawyers under the Code of Professional Responsibility, thus it cannot be implied that other auditing services may be required.

2. May the Board enter into a contract for services without said contract being in writing, approved by the City Council upon recommendation and signature of the Mayor, and attested and the official City seal affixed thereto by the City Clerk?

Answer: Yes.

It is necessarily implied that the Board has the power to contract in order to effectuate the powers it possesses under Sec 5 and 6 of the Pension Contract. The Board need not meet the procedure required for city contracts under the 1975 Charter (Article VIII, Sec 8.01).

3. Whether monies paid under the Florida Workmens' Compensation Act and Chapter 57-1903, Laws of Florida (1957) are "earnings" as defined under the Pension Contract and subject to city and employee contribution requirements and includible as "earnings" in determining a member's "average earnings"?

   Answer: Yes.

   The "super compensation" act is construed to evidence an intent that the employees covered thereby were to receive their full earnings (wages or compensation) during periods of disability. These payments are "substitutes" for salary and the Court so finds. Past practices by the City support this construction. Being "substitutes" for salary and full earnings and finding no evidence of an intent that they be excluded from pension contributions, deductions or earnings calculations, the Court finds that they are "earnings" under the Pension Contract.

4. Whether Plaintiffs are entitled to reasonable attorney's fees?

   Answer: Yes.

   The Court finds that the subject action by the Plaintiffs is of benefit to the Plaintiffs and to the Defendant in that both parties have sought interpretations and constructions by declaratory decree of certain terms and provisions of the subject Pension Contract. Further, the action has preserved, protected or increased the common fund (pension fund). See Item 3 hereof. Westcoast Hospital Association v The Florida National Bank of Jacksonville, 100 So. 2d 807. G.M.Dykes Iron Works, Inc., v Dehenffe et al., 131 So.2d 760.

5. Whether either party to the Pension Contract is precluded from seeking unilateral change, modification or amendment through enactment of special legislation directing changes to the contract?

Answer: No.

The Court finds that the Pension Contract in issue is voluntary and may not be changed, modified or amended by the actions of only one party to the contract. To this, both parties agree. The Court further finds that any party to the Contract may seek legislation authorizing the parties to the Contract to amend the Contract.

6. Whether the Board of Trustees of the Firefighters and Police Officers Pension Fund may sue or be sued?

Answer: Yes.

Nuce v Board of Trustees for the City Pension Fund for Firemen and Policemen in the City of Miami Beach, 246 So. 2d 610. Section 112.62 Florida Statutes.

7. Whether the Pension Board is a "Municipal Board" of the City of Tampa:

Conclusion: No. The parties in their arguments conclude that the Board must be determined to be either an "autonomous entity" or a "Municipal Board" and they argue, after having made that determination, the answer to all questions of interpretation of rights and obligations of the Board under the contract are clear. The Court concludes that the Board is not one or the other but expressly finds that it has characteristics of both. It is "autonomous" in the sense that it can sue or be sued as determined in paragraph 6. It is a "Municipal Board" to the extent that it must avail itself of the services of the City Attorney except in the limited situations mentioned in paragraph 1.

In keeping with the aforesaid, the Court expressly makes a finding that in the creation of the Pension Board, it <u>was not</u> the intention of the parties, either legislative or city, to create a fully independent and autonomous Pension Board.

(a) Whether disbursements from the Pension Fund must be in accordance with the disbursement requirement of Section 7.02 of the 1975 Revised Charter?

Conclusion: No, the Court finds the answer to this question is covered by Section 6 of the Pension Contract. (Joint Exhibit No. 1). This conclusion is made with reference to "disbursements" only. Auditing is covered in Question 1, and appropriations of city funds are not involved.

(b) Whether members of the Pension Board must be residents and electors of the City and are members precluded from taking any action inconsistent with the 1975 revised City Charter as set forth in Section 6.01?

Conclusion: No.

The Court finds that while there are no express provisions in either the Pension Contract or the special acts covering residency requirements, the controlling practice prior to the enactment of the revised charter governs and is preserved and recognized by Sections 9.01 and 11.07 of the Revised Charter.

(c) Whether the contract for brokerage services for the Pension Fund must conform to the requirements of Section 8.01 of the 1975 Revised Charter and be let upon a competitive bid basis in accordance with Section 8.04?

Conclusion: No. The Court finds that the services provided by the broker in issue are professional or highly technical or specialized. Competitive bids are therefore not required. See Section 8.04 of the 1975 Revised Charter.

8. Whether legal opinions rendered by the City Attorney and his assistants are final official legal positions of the City and binding upon the Pension Board, and whether or not the City Attorney of the City of Tampa is the sole legal adviser to the Firefighters and Police Officers Pension Board?

Conclusion: No. The answer to Question 1 is responsive to this question.

9. What is the proper interpretation and application of Section 23 of the Pension Contract which provides for a post-retirement adjustment account to pay cost of living pension benefits?

Conclusion: The Court finds that the "intent" of the original negotiators of the contract was that there could not and would not be any negative adjustments to the post-retirement adjustment account.

It is the further finding of the Court that until the main fund equals 5% compounded annually on the pertinent date, no amount may be transferred to the post retirement adjustment account; and, the 5% calculation of earnings is based on the actual value of the fund on each September 30th.

10. Whether the Pension Fund is a "Municipal Fund" and subject to yearly audit pursuant to Florida Statutes, Chapter 166.241?

Answer: No.

As previously stated, the Court finds that the Pension Fund is not exclusively a "municipal fund" of the City, nor is it "autonomous". The Court does recognize it as a "trust fund", and as such, it is not subject to an annual post audit by the City under Chapter 166.241 except to the extent approved or requested by the Pension Board.

The right of the Pension Board to hire an independent auditor was considered in question one.

The Court recognizes the "annual accounting" duty placed on the Pension Board by Section 3, Chapter 3.310 Laws of Florida, Special Acts of 1955 but does not recognize this as a justifiable basis for the hiring of an independent auditor in the absence of express authorization by the Pension Contract and/or the special acts of the legislature.

11. Whether the City can set off the amount of Workmen's Compensation paid against the amount of pension benefits where the Pension Contract was signed prior to July 1, 1973 or where the date of injury for which Workmen's Compensation was paid occurred prior to July 1, 1973.

Answer: No.

The Court finds that the provisions of the Pension Contract expressly foreclose any offset or diminution in pension benefits.

12. Whether the Executive Secretary and Secretary of the Pension Fund are regular classified employees of the City and as such their job classification and compensation are determined in accordance with civil service laws?

Answer: No.

The Court finds that under the express provisions of the Pension Contract, Sec. 5(1) and the evidence presented the aforesaid employees are not classified employees of the City subject to Civil Service Laws.

13. Whether the 1975 Revised City Charter or Ordinance changes the terms of the Pension Contract, thereby impairing the obligations of the contract contrary to the state or federal constitutions?

Answer: No.

To the extent that the provisions of the Pension Contract conflict or are inconsistent with the 1975 Revised City Charter - the Pension Contract controls. Thus, there can be no change in the terms of the agreement in the absence of a special act, or a voluntary amendment by the parties to the agreement.

DONE and ORDERED in Chambers in Tampa, Hillsborough County, Florida this 27th day of September, 1979.

Morton J. Hanlon

MORTON J. HANLON
Circuit Judge

Copies furnished:
James B. Loper, Esq.
Thomas K. Morrison, Esq.
Karen J. Prevatt, Esq.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED.

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

SECOND DISTRICT

CITY OF TAMPA, a municipal corporation,	)	
Appellant,	)	
v.	)	
A. S. CONIGLIO, JR., FRANK WARNER, BILL RIPLEY, CAPT. E. D. WILLIAMS, ROBERT E. PENNINGTON, HARRY S. ORR, WILLIAM M. WILSON, KEN SUMNER and SGT. GABRIEL VENERO,	)	CASE NO. 79-1962
Appellees.	)	

Opinion filed February 11, 1981.

Appeal from the Circuit Court
for Hillsborough County;
Morton J. Hanlon, Judge.

Joseph G. Spicola, Jr.,
City Attorney, and Karen J.
Prewitt, Assistant City Attorney,
Tampa, for Appellant.

James D. Loper of
Hamilton & Douglas, P.A.,
Tampa, for Appellees.

PER CURIAM.

Affirmed.

OTT, A.C.J., and RYDER and DANAHY, JJ., Concur.

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY CIVIL ACTION

A. S. CONIGLIO, JR., et al, Plaintiffs,	:	
vs.	:	CASE NO. 77-7389
CITY OF TAMPA, a Municipal Corporation, et al, Defendants.	:	

STIPULATION AND AGREEMENT WITH RESPECT TO SECTION 23(1) OF THE CITY OF TAMPA FIREFIGHTERS AND POLICE OFFICERS PENSION CONTRACT

WHEREAS, the Final Decree was entered in the above-styled cause on September 27, 1979, and the parties do not agree as to the interpretation of Paragraph 9 in the Decree as it relates to the Post Retirement Adjustment Account; and

WHEREAS, it is in the interest of the parties and the participants of the pension plan for the parties to agree upon an interpretation of the Court's Decree as it relates to the Post Retirement Adjustment Account; and

WHEREAS, since the first payments from the Post Retirement Adjustment Account shall commence in 1980, and an appeal of the Court's decision on this issue could delay such payments;

NOW, THEREFORE, in consideration of the above premises which shall be deemed an integral part of the Agreement;

IT IS AGREED between the below-signed parties that Section 23(1), defining the Post Retirement Adjustment Account of the Firefighters and Police Officers Pension Contract, shall be calculated in accordance with the following methodology:

1. That the annual computation for determining the Post Retirement Adjustment Account shall be in accordance with the summary of the testimony of Logan Browning as set out in the Trial Brief submitted by the Plaintiffs in the above-styled case at Pages 44 and 45, which are attached hereto and made a part of this Stipulation.

2. That the methodology for computing the Post Retirement Adjustment Account shall be that depicted by Plaintiff's witness Logan Browning as shown in the calculation which is attached hereto and made a part of this Stipulation.

3. That the amounts used in the attached annual calculations and the proper accounting method for determining the correct amounts to be used in the actual annual calculations described and illustrated in the attachments hereto are not agreed to by virtue of this Stipulation and Agreement.

A. S. CONIGLIO, JR.
Plaintiff, and Chairman of
Firefighters and Police
Officers Pension Board

CITY OF TAMPA

BY: BOB MARTINEZ, Mayor

JOSEPH G. SPICOLA, JR.
City Attorney

HAMILTON & DOUGLAS, P.A.
2620 W. Kennedy Boulevard
Tampa, Florida 33609
Phone (813) 879-9842

By: JAMES B. LOPER
ATTORNEYS FOR PLAINTIFFS

BY: KAREN J. PREVATT
Assistant City Attorney
6th Floor, City Hall
Tampa, Florida 33602
Phone: (813) 223-8053
ATTORNEYS FOR DEFENDANTS

DATED: 10-27-89

expected for the previous year, but adds to it 5% of the actual market value of the fund at the end of the previous year.

In other words, both Mensch and Browning in determining the ending balance expected, start with the ending balance expected for the previous year. They differ on the method used in determining what figure will be added to the ending balance expected of the previous year. They differ on what figure to multiply 5%. Mensch would take 5% of the ending balance expected for the previous year, regardless of the actual market value, whereas Browning would take 5% of the actual market value of the fund at the end of the previous year. Stated more clearly by Browning himself:

> "My earnings, though, are calculated on what the actual balance was. If it didn't have it it couldn't earn it, so I calculate 5% on the actual fund balance at the beginning of the year and the same six months average on the net increase." (T-510/7-11).

and

> "Q. Why don't you take 5% of the ending balance expected to get the expected earnings?
>
> "A. It would be impossible for it to earn it because it didn't have it to earn it with." (T-510/23-25 and T-511/1).

Browning's interpretation is supported by a qualifying phrase in Section 23, paragraph 1, which provides:

> "Commencing September 30, 1970, the size of the fund determined on a market value basis shall be compared with the amount that would have been in the fund had the fund earned 5%, inclusive of realized and unrealized capital gains and losses. . . " (Emphasis supplied).

This qualifying phrase, as stated by Browning, requires that . . .

> ". . . you have to base what its earnings would have been upon realized and unrealized gains and losses that it had experienced up to that point." (T-511/12-14).

It should also be noted that Browning's method in determining 5% earnings takes 5% of the actual market value of the fund even though the actual market value of the fund exceeds the ending balance expected.

To summarize, Logan Browning's method contains the following features:

1. There is no negative adjustments to the post-retirement adjustment account. In other words, there's no negative adjustments to the post-retirement adjustment account for those years when the fund earns less than 5%.

2. It requires the main fund to overcome any years in which the fund did not earn 5% before any additional monies are placed into or credited to the post-retirement adjustment account. In other words, the post-retirement adjustment

account is not increased or more money put into until all years in which the main fund did not earn 5% are overcome by subsequent earnings. This maintains the actuarial soundness of the main fund.

3. It compounds the fund annually at 5% beginning from October 1, 1969.

4. The 5% earnings are calculated on what the actual balance of the fund was on each September 30. In other words, the 5% earnings are based upon unrealized and realized capital gains and losses that the fund had experiencec up to that point.

Browning's interpretation should be given the most creditibility and weight. He was Chairman of the Firefighters and Police Officers Pension Fund at the time Section 23 was inserted into the pension contract. He was City Comptroller representing the interests of the City of Tampa. He was and is a Certified Public Accountant. He will not benefit from the outcome of the interpretation of Section 23. His interpertation has not changed since 1969. His interpretation is consistent with the language of Section 23. His interpretation is consistent with practical application.

CITY PENSION FUND FOR FIRE FIGHTERS AND POLICE OFFICERS
BASIC DATA BASED ON SECTION 53 OF THE CONTRACT
FOR YEARS ENDED SEPTEMBER 30, 1970 THROUGH 1978

	YEARS ENDED SEPTEMBER 30 (A) 1970	(B) 1971	(B) 1972	(B) 1973	(B) 1974	(C) 1975	(C) 1976	(C) 1977	(D) 1978	NINE YEAR TOTALS
BEGINNING BALANCE - EXPECTED	4085000 (A)	5664000	7418000	9543000	12530000	16694000	25139000	32700000	40838000	4085000
NET INCREASE IN FUND, BEFORE REALIZED GAINS <LOSSES>	1341000 (A)	1472000	1712000	2949000	3514000	7567000 (B)	6245000	6316000	6307000	36911000
EXPECTED EARNINGS @ 5% ON:										
ACTUAL BEGINNING BALANCE, AT MARKET	204000	239000	370000	477000	626000	611000	1160000	1664000	2042000	7349000
AVERAGE NET INCREASE IN FUND	34000	37000	43000	61000	88000	155000 (B) 112000	156000	158000	158000	1002000
FUND BALANCE EXPECTED	<5664000>	7418000	9543000	12530000	16694000	25139000	32700000	40838000	49347000	49347000
FUND BALANCE, AT MARKET (INCL PNR)	4780000	7462000	9949000	11849000	12334000	23201000	32316000	41393000	51303000	51303000
DEFICIENCY <EXCESS>	884000	16000	<406000>	1281000	4460000	1938000	<588000>	<555000>	<1956000>	<1956000>
LESS: POST RETIREMENT ADJUSTMENT ACCOUNT	—	—	406000	406000	406000	406000	588000	588000	1956000	1956000
ADJUSTED DEFICIENCY	884000	16000	-0-	1687000	4866000	2344000	-0-	33000	-0-	-0-
POST RETIREMENT ADJUSTMENT ACCOUNT:										
Beginning Balance	—	—	—	406000	406000	406000	406000	588000	588000	-0-
Additions	—	—	406000	—	—	—	182000	—	1368000	1956000
Ending Balance	—	—	406000	406000	406000	406000	588000	588000	1956000	1956000

Accts Receivable
Employer, et al
Arthur Young & Company
City Pension
Wages for contributions receivable
$433,632
Investment income receivable

SUMMARY OF AUDIT REPORTS
FOR THE YEARS ENDED SEPTEMBER 30, 1970 THROUGH 1978

	YEAR ENDED SEPTEMBER 30, (A) 1970	(B) 1971	(B) 1972	(B) 1973	(B) 1974	(C) 1975	(C) 1976	(C) 1977	(D) 1978	NINE YEAR TOTALS
CASH RECEIVED:										
CONTRIBUTIONS —										
Members	1409832	745370	825778	1157957	1575095	1977819	2152000	2183000	2277000	14303851
Florida	408737	368791	441143	503513	557807	610939	683000	809000	901000	5263930
City of Tampa	185958	1277696	1665462	2183393	2965811	3700034	5564000	6083000	6290000	30216554
Other										
Less, refunds & withdrawals	<42207>	<62041>	<149198>	<140447>	<66120>	<99296>	<150000>	<233000>	<237000>	<1159291>
TOTAL	2461820	2329796	2783185	3704416	5012593	6209496	8259000	8842000	9231000	48833306
CASH EXPENDED:										
Benefits paid	659435	822134	1024842	1215801	1469026	1662114	1981000	2501000	2883000	14178454
Administrative costs	27340	29187	46073	59466	69089	82676	33000	25000	39000	410771
TOTAL	686775	851323	1070915	1275307	1538115	1744790	2014000	2526000	2922000	14589225
NET CASH INCREASE BEFORE INVESTMENT EARNINGS <LOSSES>	1775045	1478473	1712270	2429109	3514478	4464706	6245000	6316000	6309000	34244081
INVESTMENT EARNINGS <LOSSES> REALIZED	95190	418676	412951	<623391>	<512158>	861431	2451000	2322000	3601000	3407141
NET CHANGE TO MARKET VALUE OF ACCUMULATION						3102542	1391000	<533000>		
NET INCREASE <DECREASE>	1870235	1897149	2125221	1805718	3362220	8428679	10087000	8105000	9910000	47651220
FUND BALANCE —										
Beginning	3651778	5522013	7479162	9604383	11410101	14772321	23201000	33288000	41393000	3651778
Ending	5522013	7479162	9604383	11410101	14772321	23201000	33288000	41393000	51303000	51303000

(A) Auditor's Annual Report
(B) Beck, Hermida, et al
(C) Arthur Young & Company
(D) City personnel

FUND BALANCE
9/30/69

Fund Balance per audit report		$ 365,772
(note: all in U.S. Govt Obligations)		
Add:		
Ad Interim Taxes not transferred		2727
Florida Contribution	1966-67	19,171
Interest earned thereon		2947
Florida Contribution	1967-68	21,695
Actual Fund Balance	9/30/69	$ 408,540

DEC 75

(1) COMMENCING 9/30/70 + EACH 9/30 —

SIZE OF FUND @ MKT VALUE
(COMPARED WITH)
SIZE OF FUND IF EARNED 5% (INCL UNREALIZED)
COMPOUNDED ANNUALLY FROM 10/1/69

→ IF, ON ANY 9/30, FUND EXCEEDS THE 5% ACCUMULATION
EXCESS = POST RETIREMENT ADJUSTMENT ACCOUNT
(5% ACCUMULATION WILL NOT BE REDUCED BY ANY PRBA PAY
i.e., FUND BALANCE MUST BE INCREASED BY
AMOUNT OF ANY PAYMENT)