

**PENSION BOARD POLICIES  
FIREFIGHTERS & POLICE OFFICERS  
PENSION FUND OF THE CITY OF TAMPA**

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**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) **DISTRIBUTE.** 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.