

**LEGISLATIVE #**

**200657**



1 amended as follows. Except as amended herein, the remainder of Sec. 2-608 remains in full  
2 force and effect.

3 **Sec. 2-608. Supplemental retirement program for police officers.**

4 (a) *Definitions.* The following words and phrases used in this section shall have  
5 the meanings set forth below, unless a different meaning is plainly required by the  
6 context:

7 (1) *Additional premium tax revenues* means the premium tax revenues  
8 received from the state pursuant to ~~F.S. § 185.10~~ Chapter 185, Florida Statutes, in  
9 plan years 2001 through and including 2006 that exceeded \$485,156.16 annually;  
10 and premium tax revenues received from the state pursuant to ~~F.S. § 185.10~~  
11 Chapter 185, Florida Statutes, in plan years 2007 and thereafter that exceed  
12 \$558,361.13 annually.

13 (2) *Annual allocation* means the pro rata amount for each share eligible  
14 member, calculated on an annual basis, of premium tax revenues received from  
15 the state in plan years 2013 and thereafter pursuant to ~~F.S. § 185.10~~ Chapter 185,  
16 Florida Statutes, that exceed \$558.361.13, plus prior plan year forfeited balances.

17 (3) *Effective date* means July 1, 2013, the date on which this  
18 supplemental share program shall take effect.

19 (4) *Forfeiture* means the termination of a member's account, or eligibility  
20 for annual or initial allocations, pursuant to F.S. § 112.3173, section 2-604,  
21 section 2-608(d)(3), or other forfeiture required by law, and reversion of such  
22 funds to the plan.

1                   (5) *Initial allocation* means the pro rata amount for each share eligible  
2 member, calculated on an annual basis, of premium tax revenues received from  
3 the state in each plan year 2001 through and including 2006 that exceeded  
4 \$485,156.16, premium tax revenues received from the state in each plan year  
5 2007 through and including 2012 that exceeded \$558,361.13. Based on the  
6 foregoing, the premium tax revenues available for pro rata distribution for plan  
7 years 2001 through and including 2012 shall be as follows:

8                   2001: \$47,489.07

9                   2002: \$92,473.27

10                  2003: \$128,534.50

11                  2004: \$113,964.78

12                  2005: \$122,126.39

13                  2006: \$147,619.49

14                  2007: \$55,989.29

15                  2008: \$83,458.87

16                  2009: \$109,443.49

17                  2010: \$55,897.01

18                  2011: \$51,242.95

1                                   2012: \$41,547.90

2                                   Sum total: \$1,049,787.01

3                                   (6) *Member* means any police officer who was or is in the regular, full-  
4 time employ of the city on or after October 1, 2000.

5                                   (7) *Premium tax revenue* means the revenues received by the city from the  
6 tax assessed on premiums collected on casualty insurance policies pursuant to  
7 section 2-599(b)(2). Said tax is collected on policies issued in a calendar year  
8 within the city and remitted to the state. Following an annual review and approval  
9 of the consolidated plan by the state, said tax, less state fees, is provided to the  
10 board, in approximately August or September of the following calendar year.

11                                   (8) *Retired* means any member who is receiving a retirement benefit under  
12 sections 2-600(a), (b), or (c), a member who met the conditions set forth in section  
13 2-601(b)(4) regardless of the form of benefit, or a member who died in the line of  
14 duty, as defined and determined by the board, consistent with F.S. § 185.34,  
15 regardless of years of credited service, or months of credited service in the plan  
16 year prior to death. A member eligible for re-employment under USERRA who  
17 died while performing qualified military services as defined in USERRA shall be  
18 deemed to have retired on the day before he died regardless of years of credited  
19 service at time of death. Members who are employed by the city and participants in  
20 the deferred retirement option program (DROP) under the consolidated plan are not  
21 considered retired for purposes of this section.

22                                   (9) *Service credit rules* shall mean the following:

1 a. Day of service shall mean each day for which a member is:

2 i. Paid, or entitled to payment, by the city for  
3 performance of duties as a police officer;

4 ii. Paid, or entitled to payment, by the city on account of  
5 a period of time during which no duties are performed as a police  
6 officer (e.g., vacation, holiday, illness, incapacity, layoff, jury  
7 duty, military duty or approved leave of absence);

8 iii. Each day for which back pay as a police officer,  
9 irrespective of mitigation or damages, has been either awarded to  
10 or agreed to by the city; provided, however, that the same day shall  
11 not be credited as a day of service more than once.

12 b. Month of service shall mean a one-month period beginning on  
13 the day of the month corresponding to a member's most recent date of  
14 employment with the city as a police officer, during which the member  
15 has earned at least ten days of service; provided however, that ten days of  
16 service will be deemed to have been earned in each month of service in  
17 which occurs:

18 i. An approved leave of absence, not to exceed 90 days,  
19 authorized by the city, in accordance with a uniform policy applied  
20 on a nondiscriminatory basis to all members similarly situated; or

21 ii. Voluntary or involuntary service in the Armed Forces  
22 of the United States for a period not greater than five years of the

1 time spent in the military service of the Armed Forces of the  
2 United States shall be added to the years of actual service, if: the  
3 member is in the city's active employ as an eligible employee prior  
4 to such service and leaves such position for the purpose of  
5 voluntary or involuntary service in the Armed Forces of the United  
6 States; such member is entitled to re-employment under the  
7 provisions of the USERRA; and the member returns to his or her  
8 employment as a police officer as an eligible employee within one  
9 year from the date of his or her release from such active service.

10 c. A member shall earn days or months of service for purposes  
11 of calculating benefits due under the share program after entering in a  
12 DROP.

13 d. If the employment of a member as a police officer with the  
14 city is terminated, and such former member is subsequently re-employed  
15 by the city as a police officer, the member's date of employment, for  
16 purposes of determining credited service, shall be based on the member's  
17 subsequent re-employment date as a police officer.

18 e. Credited service shall mean the aggregate number of months  
19 of service with the city as a police officer, expressed in terms of full and  
20 fractional year, subject to the following:

21 i. No additional months of service shall be credited for  
22 unused sick leave.

1                   ii. No member shall receive credit for years or fractional  
2 parts of years of service if he or she has withdrawn his or her  
3 contributions to the consolidated plan for those years or fractional  
4 parts of years of service, even if the member repays into the  
5 consolidated plan the amount he or she has withdrawn, plus  
6 interest as determined by the board.

7                   (10) *Share eligible member* means a member of the program who meets  
8 the eligibility criteria set forth in section 2-608(c).

9                   (11) *Supplemental share program, share program, or program* means the  
10 Supplemental Retirement Program for Police Officers, as set forth in this section,  
11 and as it may be amended from time to time in the future.

12                   (b) *Establishment.* There is hereby created for the police officers of the city a  
13 program to be known as the "Supplemental Retirement Program for Police Officers," also  
14 referred to in this section as the "program," "supplemental share program," or "share  
15 program." The creation and maintenance of the assets of the program, the benefits  
16 provided for and the administration of the program shall be in accordance with the  
17 provisions of this section.

18                   (c) *Eligibility.*

19                   (1) *Eligibility to receive the initial allocation.*

20                   a. For members retired on or before the effective date to be  
21 eligible to receive the initial allocation for each plan year from 2001 to  
22 2012, an individual must be a member of the program and must have:

1 i. Retired and terminated employment in connection  
2 therewith;

3 ii. Been employed by the city as a police officer for the  
4 entire plan year.

5 b. For members employed by the city after the effective date to  
6 be eligible to receive the initial allocation for each plan year from 2001 to  
7 2012, an individual must be a member of the program and must have been  
8 employed by the city as a police officer for the entire plan year.

9 (2) *Eligibility to receive the annual allocation of share program funds*  
10 *received on or before September 30, 2019.*

11 a. For retired members to be eligible to receive the annual  
12 allocation, an individual must be a member of the program and must have:

13 i. Retired and terminated employment in connection  
14 therewith prior to the actual receipt of premium tax revenues by  
15 the board for the plan year; and

16 ii. Been employed by the city as a police officer for the  
17 entire plan year.

18 b. For members employed by the city to be eligible to receive  
19 the annual allocation, an individual must be a member of the program and  
20 must have:

21 i. Been employed on the date the premium tax revenues  
22 are received by the board for the plan year; and

1                   ii.    Been employed by the city as a police officer for the  
2                   entire plan year.

3                   (3) Eligibility to receive the annual allocation of share program funds  
4                   received after September 30, 2019.

5                   a. For retired members to be eligible to receive their annual  
6                   allocation, an individual must have been a member of the program and must have:

7                    i. Retired and terminated employment in connection  
8                    therewith prior to the actual receipt of premium tax revenues by  
9                    the board for the plan year;

10                  ii. Been employed as a law enforcement officer for the  
11                  entire plan year; and

12                  iii. A minimum of 19 years of credited service at the  
13                  beginning of the plan year.

14                  b. For members employed by the city to be eligible to receive the  
15                  annual allocation, an individual must be a member of the program and  
16                  must have:

17                  i. Been employed as a law enforcement officer for the  
18                  entire plan year; and

19                  ii. A minimum of 19 years credited service at the  
20                  beginning of the plan year.

1                   (34) *Forfeiture.* Members whose retirement benefits have been forfeited  
2 pursuant to F.S. § 112.3173, section 2-604, or any other law, and members who  
3 terminate their employment with the city as a police officer prior to the  
4 completion of at least ten years of credited service are not eligible for any  
5 distributions or allocations under the share program.

6                   (45) *Re-employed retirees and recipients of termination benefits.* A  
7 former employee of the city receiving retirement or termination benefits from the  
8 City of Gainesville Employees Disability Plan, the City of Gainesville Employees  
9 Pension Plan, or retirement benefits or monthly termination benefits under the  
10 consolidated plan may, upon becoming re-employed by the city become a  
11 member of the share program, earn credited service, and become entitled to  
12 receive a supplemental retirement benefit subject to the following conditions:

13                   a. Such member shall re-satisfy the eligibility requirements for  
14 participation in this program.

15                   b. No service for which credit was received, or which remained  
16 unclaimed, at retirement or termination may be claimed or applied toward  
17 service credit earned following renewed membership.

18                   c. Such re-employed member shall not be entitled to purchase  
19 additional credit for service performed prior to re-employment for which  
20 retirement or termination benefits are being received.

21                   (d) *Funding and benefits.*

22                   (1) *Allocation of additional premium tax revenues.*

1 a. *Initial allocation.*

2 i. The board shall distribute the initial allocation to each  
3 share program eligible member as described in section 2-608(e)  
4 based upon his or her status as a share eligible member for each  
5 plan year additional premium tax revenues were received by the  
6 board from plan years 2001 to 2012.

7 ii. The board shall make the initial allocation within 90  
8 days of the effective date.

9 b. *Annual allocation.*

10 i. The board shall distribute the annual allocation to each  
11 share program eligible member as described in section 2-608(e)  
12 based upon his or her status as a share eligible member for each  
13 plan year additional premium tax revenues are received by the  
14 board in plan years 2013 and thereafter. If the board receives no  
15 additional premium tax revenues or the administrative fees and  
16 expenses exceed the additional premium tax revenues received,  
17 there shall be no annual allocation to share eligible members.

18 ii. The board shall make the annual allocation no later  
19 than 90 days after its receipt of such additional premium tax  
20 revenues.

1                   (2) *City's contributions to the program.* The city shall not be required to  
2                   levy any additional taxes on its residents or make any contributions to the  
3                   supplemental share program.

4                   (3) *Forfeiture.* Members whose retirement benefits have been forfeited  
5                   pursuant to F.S. § 112.3173, section 2-604, or any other law, and members who  
6                   terminate employment with the city as a police officer prior to the completion of  
7                   at least ten years of credited service shall not be deemed a share eligible member  
8                   for the purposes of any allocation or distribution under this section and any  
9                   amounts of additional premium tax revenues which otherwise would be allocated  
10                  shall revert to the plan and, after final resolution of all claims, be included in the  
11                  next annual allocation.

12                  (4) *Payment of costs, expenses and fees.* All costs, expenses and fees of  
13                  developing and administering the supplemental share program shall be paid from  
14                  the assets of the share program in such fashion as the board shall reasonably  
15                  determine. Any direct distribution and any allocation to a share eligible member's  
16                  account shall be net of such member's pro rata portion of the share program's  
17                  costs, expenses and fees of administering the share program.

18                  (e) *Accounts; distributions.*

19                         (1) *Distributions to employee members.*

20                             a. For share eligible members who are employed by the city on  
21                             or after the effective date, initial and annual allocations shall be transferred  
22                             to individual accounts on behalf of the member in accordance with this

1 section. Members' share accounts shall annually be credited or debited  
2 with gains or losses equal to the overall market rate of return on  
3 investments of the consolidated plan, less any fees or expenses related to  
4 administration of the share program, on or before December 31. Upon  
5 termination of a member's employment with the city as a police officer  
6 and becoming retired under the consolidated plan in connection therewith,  
7 the balance of the member's account shall be paid to the member or  
8 member's beneficiaries in a single lump sum or a member may elect a  
9 direct rollover as allowed in section 2-600(j). Failure to make an election  
10 will result in the payment being made in a lump sum.

11 b. After the completion of at least ten years of credited service,  
12 share eligible members who are employed by the city may make a one-  
13 time, irrevocable election, at the time and in the manner prescribed by the  
14 board, to transfer the balance of their account to another account within  
15 the plan designated by the member for investment. Such members may  
16 direct their share money to any of the investment options offered by the  
17 third party administrator approved by the board. There shall be no  
18 guaranteed rate of investment return on these accounts. Upon transfer of  
19 the share money to the account designated by the member, neither the city  
20 nor the board shall have any obligation to the member concerning  
21 investment gains or losses. Transfers between accounts shall be in  
22 accordance with the rules of the third party administrator.

1 c. Members who terminate their employment with the city as a  
2 police officer prior to the completion of at least ten years of credited  
3 service shall forfeit their share of any annual or initial allocation, shall not  
4 be eligible for any distribution under this section, and their share shall  
5 revert to the plan for pro rata allocation to eligible members during the  
6 following plan year.

7 (2) *Distributions to retired members.* For share eligible members who  
8 are no longer employed by the city at the time the board makes allocations, such  
9 members or members' beneficiaries shall be paid in a single lump sum or a  
10 member may elect a direct rollover as allowed in section 2-600(j). Failure to make  
11 an election will result in the payment being made in a lump sum.

12 (f) *Miscellaneous.*

13 (1) *City's responsibilities.* The city shall have no responsibility for the  
14 operation of the share program except those specified herein and shall bear no  
15 expense in connection therewith.

16 (2) *USERRA.* Notwithstanding any provision of the program to the  
17 contrary, contributions, benefits and service credit with respect to qualified  
18 military service shall be provided in accordance with Section 414(u) of the  
19 Internal Revenue Code.

20 **Section 2.** It is the intention of the City Commission that the provision of Section 1  
21 of this ordinance shall become and be made a part of the Code of Ordinances of the City of

1 Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be renumbered  
2 or relettered in order to accomplish such intentions.

3 **Section 3.** If any word, phrase, clause, paragraph, section or provision of this  
4 ordinance or the application hereof to any person or circumstance is held invalid or  
5 unconstitutional, such finding shall not affect the other provisions or applications of the  
6 ordinance which can be given effect without the invalid or unconstitutional provisions or  
7 application, and to this end the provisions of this ordinance are declared severable.

8 **Section 4.** All ordinances or parts of ordinances, in conflict herewith are to the extent  
9 of such conflict hereby repealed.

10 **Section 5.** This ordinance shall become effective immediately upon final adoption.

11 PASSED AND ADOPTED this \_\_\_\_ day of February, 2021.

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\_\_\_\_\_  
LAUREN POE  
MAYOR

ATTEST:

Approved as to form and legality

\_\_\_\_\_  
OMICHELE D. GAINES  
CITY CLERK

\_\_\_\_\_  
NICOLLE M. SHALLEY  
CITY ATTORNEY

This ordinance passed on first reading this \_\_\_\_ day of January, 2021.

This ordinance passed on second reading this \_\_\_\_ day of February, 2021.