

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
 GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY
 Senator Ring, Chair
 Senator Siplin, Vice Chair

MEETING DATE: Tuesday, February 22, 2011
TIME: 3:15 —5:15 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Ring, Chair; Senator Siplin, Vice Chair; Senators Benacquisto, Bogdanoff, Dean, Fasano, Flores, Garcia, Latvala, Margolis, Montford, Norman, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1128 Ring (Compare H 303)	Public Retirement Plans; Provides that a local governmental entity may not offer a defined benefit retirement plan to a plan member hired on or after a certain date. Provides that local plans must use at least 5 years to determine a plan member's average final compensation for calculating retirement benefits for members hired on or after a certain date. Directs the Department of Financial Services to rate the financial strength of local government defined benefit plans. Creates the Task Force on Public Employee Disability Presumptions, etc.	GO 02/22/2011 BC
2	SB 1130 Ring (Compare H 303)	Retirement; Requires employee and employer contributions to the retirement system by a certain date. Clarifies that employer-paid employee contributions are subject to certain taxes. Amends provisions relating to the membership class of elected officers. Amends provisions relating to the optional retirement program for the State University System. Changes the name of the Public Employee Optional Retirement Program to the Florida Retirement System Investment Plan, etc.	GO 02/22/2011 BC

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: SB 1128

INTRODUCER: Senator Ring

SUBJECT: Local Government Retirement Plans

DATE: February 19, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	Roberts	GO	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

The bill makes a number of changes affecting local government pension plans:

- A local government may not offer defined benefit retirement plans after July 1, 2011;
- Local government plans must use at least 5 years in determining an employee’s average final compensation;
- Plan sponsors must provide a death benefit to members killed in the line of duty;
- Firefighter and police pension plans are eligible to enter the Florida Retirement System only if the plan has no unfunded actuarial liabilities;
- Overtime compensation, unused leave, and other forms of compensation are removed from the definition of “compensation” or “salary” as used in firefighter and police pension plans, which would affect any calculation that uses those definitions;
- Premium tax income is required to be used for unfunded actuarial liabilities, before it can be used to fund extra benefits in firefighter and police pension plans;
- A Task Force on Public Employee Disability Presumptions is created to study and make recommendations on disabilities incurred in the line of duty;
- The Department of Financial Services is required to make recommendations regarding how local pension plan financial data should be reported; and
- The Department of Financial Services is required to create and provide standardized ratings for the financial strength of all local government defined benefit plans in Florida, to be provided on the department’s website.

This bill substantially amends sections 112.66, 121.051, 175.032, 175.351, 185.02, and 185.35, and creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Local Retirement Systems and Plans

The Department of Management Services' Division of Retirement reports¹ that as of September 30, 2010, there are 489 defined benefit plans sponsored by 239 local governments. The vast majority of the plans, 483, are local government defined benefit systems that provide benefits to 67,724 retirees, with 107,007 active employees, and total plan assets of \$23.1 billion.² The average annual pension in these local plans is \$23,854, and the average annual required contribution rate as a percentage of payroll is 26.04%.

Collective Bargaining

Collective bargaining, pursuant to ch. 447, F.S., consists of a series of negotiations between a public employer's chief executive officer³ and the selected bargaining agent⁴ for an employee organization regarding the terms and conditions of employment.⁵ The purpose of collective bargaining is to encourage "cooperative relationships between the government and its employees," and provide public employees with a means to participate in the establishment of their employment conditions.⁶

Employees have the right to collectively bargain under article I, section 6 of the Florida Constitution.⁷ Statewide regulations for collective bargaining amongst public employees are addressed in part II of ch. 447, F.S.⁸ Section 447.309, F.S., requires any matter addressing a public employee's "wages, hours, and terms and conditions of employment" to be collectively bargained in good faith by the chief executive officer and the bargaining agent.

Any collective bargaining agreement that is reached must be placed in writing and signed by both the chief executive officer and the bargaining agent. The agreement is effective for a period of not more than three years, at which point the contract must be renegotiated.⁹

¹ Division of Management Services, *Florida Local Government Retirement Systems, 2010 Annual Report*, available online at: https://www.rol.frs.state.fl.us/forms/2010_Local_Report.pdf (last visited on February 13, 2011).

² The other 6 plans are school board early retirement programs that provide benefits to 1,570 retirees, with active plan membership of 9,157, and total plan assets of \$61.6 million.

³ Section 447.203(9), F.S., defines "chief executive officer" as the Governor for the state, and for all other public employees, the person selected or appointed that is "responsible to the legislative body of the public employer for the administration of the governmental affairs of the public employer."

⁴ The term "bargaining agent" is defined in s. 447.203(12), F.S., as the employee organization certified by the Public Employers Relations Commission (PERC) to represent the employees in the bargaining unit, as provided in s. 447.307, F.S., or its representative. Section 447.203(8) F.S., defines "bargaining unit" as a unit determined by either the PERC, through local regulations promulgated pursuant to s. 447.603, F.S., or by the public employer and the public employee organization, that is approved by the commission to be appropriate for the purposes of collective bargaining.

⁵ Section 447.203(14), F.S.

⁶ Section 447.201, F.S., *See also*, Public Employees Relations Commission, *A Practical Handbook on Florida's Public Employment Collective Bargaining Law*, 6 (2d ed. 2004).

⁷ FLA. CONST. art. I, § 6 (1968) (amendment to the "Right to Work" section: "[t]he right of employees, by and through a labor organization, to bargain collectively [which] shall not be denied or abridged").

⁸ *See* s. 447.201, F.S. The Public Employees Relations Act provided statutory implementation of the 1968 amendment to s. 6, Art. I of the State Constitution.

⁹ Section 447.309(5), F.S. ("Any collective bargaining agreement shall not provide for a term of existence of more than 3 years ...").

If the parties cannot reach a collective bargaining agreement after a reasonable period of negotiation, either party can declare a written impasse to the Public Employees Relations Commission.¹⁰

Actuarial Soundness and Minimum Funding Standards for Pensions

Article X, s. 14, of the State Constitution requires public retirement benefits to be funded on a sound actuarial basis:

SECTION 14: State retirement systems benefit changes.- A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.¹¹

The “Florida Protection of Public Employee Retirement Benefits Act” located in part VII of ch. 112, F.S., provides minimum operation and funding standards for public employee retirement plans. The legislative intent of this act is 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 tax payers.”¹²

The “Marvin B. Clayton Firefighters and Police Officers Pension Trust Fund” Acts

The Marvin B. Clayton Firefighters and Police Officers Pension Trust Fund Acts, located in chapters 175 and 185, Florida Statutes, declares a legitimate state purpose to provide a uniform retirement system for the benefit of firefighters and municipal police officers, in implementing the provisions of s. 14, Art. X of the State Constitution. Pursuant to ss. 175.021(1) and 185.01(1), F.S., all municipal and special district firefighters, and all municipal police officers retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of firefighters’ and police officers’ pension trust funds.¹³ The Division of Retirement within the Department of Management Services is the primary state agency responsible for administrative oversight, including monitoring for actuarial soundness, of the funds in the Municipal Police Officers’ Retirement Trust Fund and the Firefighters’ Pension Trust Fund.¹⁴

Firefighters Pension Trust Fund - The Firefighters Pension Trust Fund is funded through an excise tax on property insurance policies that amounts up to 1.85 percent of the gross amount of receipts on premiums for policies issued within the municipality boundary or the legally defined boundary of a special fire control district.¹⁵ This excise tax is payable to the Department of Revenue on March 1 of each year, and the net proceeds are transferred to the appropriate fund at

¹⁰ The Public Employees Relations Commission (PERC) is an independent agency that was created pursuant to s. 447.205, F.S., to assist in resolving disputes between public employers and their employees.

¹¹ Art. X, section 14 of the Florida Constitution.

¹² Section 112.61, F.S.

¹³ See ss. 175.021(1) and 185.01(1), F.S., (2006).

¹⁴ See ss. 175.121 and 185.10, F.S.

¹⁵ Section 175.101(1), F.S.

the Division of Retirement.¹⁶ In 2008, premium tax distributions to cities and special fire control districts from the Firefighters Pension Trust Fund amounted to \$70.5 million.¹⁷ The 2009 Legislature clarified the that boundaries of a special fire control district for purposes of the 1.85 percent excise tax shall “include an area that has been annexed until the completion of the 4-year period provided for in s. 171.093(4), or if a special fire control district is providing services under an interlocal agreement executed in accordance with s. 171.093(3)”¹⁸.

Municipal Police Officers Retirement Trust Fund - The Police Officers Retirement Trust Fund is funded through an excise tax on casualty insurance policies that amounts up to .85 percent of the gross receipts on premiums for policies issued within the municipality boundary.¹⁹ This excise tax is also payable to the Department of Revenue and the net proceeds are transferred to the appropriate fund at the Division of Retirement. In 2009, premium tax distributions to municipalities from the Police Officers Retirement Trust Fund amounted to \$59.4 million.²⁰

Additional revenues for both funds come from a five percent employee contribution through salary, employer contributions, and fines for employees violating board rules and regulations, and other sources.²¹

Insurance Premium Tax

Each qualified insurer must pay an annual tax on specified insurance premiums received during the preceding calendar year.²² These taxes must be paid to the Department of Revenue on March 1 of each year in an amount equal to 1.75 percent of the gross amount of receipts on the specified policies and a 1 percent on annuity policies or contacts, to be distributed into the General Revenue Fund. Pursuant to s. 624.51055, F.S., the insurer is allowed to take credits for the municipal taxes imposed on property and casualty insurance policies used to fund firefighter and police pension trust funds.²³ Each time a municipality that is currently not imposing the tax enacts an ordinance to impose the tax, a credit is taken by the insurer against the tax paid to the department for deposit into the General Revenue Fund.²⁴

Board of Trustees

Firefighters and Police Officers Retirement Trust Funds are administered by a local governing board of trustees that is created in participating cities and special fire control districts and subject

¹⁶ Section 175.101(3), F.S.

¹⁷ Division of Management Services, *Municipal Police Officers and Firefighters' Retirement Forms: Facts and Figures Premium Tax Distribution History Fire*, available online at: https://www.rol.frs.state.fl.us/forms/Police_2009.pdf (last visited on February 10, 2011).

¹⁸ Chapter 2009-97, s. 6, Laws of Florida (L.O.F.).

¹⁹ Section 185.08, F.S.

²⁰ Division of Management Services, *Municipal Police Officers and Firefighters' Retirement Forms: Facts and Figures Premium Tax Distribution History Police*, available online at: https://www.rol.frs.state.fl.us/forms/Police_2009.pdf (last visited on February 10, 2011).

²¹ See ss. 175.091(1)(a)-(g) and 185.07(1)(a)-(g), F.S.

²² Section 624.509(1), F.S.

²³ Section 624.51055, F.S., (“There is allowed a credit of 100 percent of ... However, such credit may not exceed 75 percent of the tax due under s. 624.509(1) after deducting such tax deductions for ... credits for taxes paid under ss. 175.101 and 185.08 ...”).

²⁴ According to the Department of Management Services the state premium tax distribution made during 2009, amount to approximately \$131,113,000.

to the regulatory oversight of the Division of Retirement.²⁵ The membership of the board consists of five members: two residents, two police officers or firefighters selected through the active membership, and one member selected by the other four members and approved by the appropriate governing body pro forma that are subject to two-year terms. The chair and secretary of the board are elected by a majority vote.²⁶

The general powers and duties of the board of trustees are:

- To invest and reinvest pension trust fund assets in amounts sufficient to provide entitled benefits and initial and subsequent premiums;
- To invest and reinvest pension trust fund assets into:
 - Annuities and life insurance contracts;
 - Time or savings accounts of specified banks and financial institutions;
 - Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States;
 - Bonds issued by the State of Israel;
 - Bonds (which must hold a rating in one of the three highest classifications by a major rating service), stocks, and other indebtedness issued or guaranteed by a United States Corporation; and
 - Foreign securities not to exceed 10 percent of plan assets;
- To issue drafts upon the pension trust fund;
- To convert fund securities into cash; and
- To keep record on all receipts and disbursements and the board's acts and proceedings.²⁷

In addition to these duties, the board must hold quarterly meetings and retain a professional consultant at least once every three years to evaluate the performance of any existing money manager.²⁸

Chapters 175 and 185 Plan Provisions

Sections 175.041(3) and 185.03(2), F.S., each provide that the provisions of the respective chapters do not apply to any governmental entity whose firefighters and/or police officers are eligible to participate in the FRS. Exceptions are provided for those cities and special districts that opted out of the FRS and established a chapter plan for all police officers and firefighters hired after January 1, 1996, and for a city or special district subject to a transfer, consolidation, or merger, and whose fire and law enforcement services are provided by the county in which the city or special districts are located.

Sections 175.411 and 185.60, F.S., provide that cities and special districts who opt out of a local or chapter plan but do not terminate the plan, are prohibited from receiving future insurance premium tax money used to fund the pension plans. Premium tax funds previously received must be used to fund existing benefits for vested firefighters or police officers, and the accrued benefits of such vested firefighters or police officers may not be reduced. Annual reports to the

²⁵ See ss. 175.061 and 185.05, F.S.

²⁶ The secretary of the board shall keep a record of all persons receiving retirement payments under ch. 175 and ch. 185. See ss. 175.071(4) and 185.06(3), F.S., respectively.

²⁷ See ss. 175.07(1)(a)-(e) and 185.06(1)-(f), F.S., (note s. 185.06(1)(d), F.S., provides that the board of trustees may also decide all claims to relief for municipal police pension plans).

²⁸ See ss. 175.061(3), 175.071(6)(a), 185.05(3), and 185.06(5), F.S.

Municipal Police Officers' and Firefighters' Pension Office in the Division of Retirement at the Department of Management Services are required. Sections 175.361 and 185.37, F.S., provide requirements for distribution of plan assets when a city or a special district does terminate a chapter or local law pension plan.

Sections 175.371 and 185.38, F.S., provide that when every active firefighter or police officer in a chapter or local law pension plan elects to transfer to another state retirement system, the pension plan must be terminated and the assets must be distributed in accordance with ss. 175.361 and 185.37, F.S. If some participants elect to transfer to another state retirement system and others elect to remain in the chapter or local law plan, the chapter or local law plan will continue to receive insurance premium taxes until the plan is fully funded meaning 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.

Disability Presumptions

General Provisions - Section 112.18(1)(a), F.S., provides that 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 caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death will 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 service as a firefighter or law enforcement officer, which examination failed to reveal any evidence of any such condition. The 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.

The presumption for workers' compensation claims is different. 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 suffering from tuberculosis, heart disease, or hypertension is presumed not to have incurred disease in the line of duty as provided in this section if the law enforcement officer, correctional officer, or correctional probation officer:

- 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
- 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.

Disability of Firefighters Suffered in Line of Duty – Pursuant to s. 175.231, F.S., for any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this ch. 175, F.S., 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 is applicable to all firefighters only with reference to pension and retirement benefits under ch. 175, F.S.

Disability of Police Officers Suffered in Line of Duty - Pursuant to s. 185.34, F.S., for any municipality, chapter plan, local law municipality, or local law plan ch. 185, F.S., 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 is applicable to all police officers only with reference to pension and retirement benefits under ch. 185, F.S.

Financial Reporting Requirements for Local Governments

Section 218.39, F.S., specifies the requirements for annual financial audit reports for local governments. If, by the first day in any fiscal year, a local governmental entity, district school board, charter school, or charter technical career center has not been notified that a financial audit for that fiscal year will be performed by the Auditor General, each of the following entities shall have an annual financial audit of its accounts and records completed within 12 months after the end of its fiscal year by an independent certified public accountant retained by it and paid from its public funds:

- Each county;
- Any municipality with revenues or the total of expenditures and expenses in excess of \$250,000;
- Any special district with revenues or the total of expenditures and expenses in excess of \$100,000;
- Each district school board;
- Each charter school;
- Each charter technical center;
- Each municipality with revenues or the total of expenditures and expenses between \$100,000 and \$250,000 that has not been subject to a financial audit pursuant to this subsection for the 2 preceding fiscal years.

- Each special district with revenues or the total of expenditures and expenses between \$50,000 and \$100,000 that has not been subject to a financial audit pursuant to this subsection for the 2 preceding fiscal years.

All audits conducted in accordance with this section must be conducted in accordance with the rules of the Auditor General. All audit reports and the officer's written statement of explanation or rebuttal must be submitted to the Auditor General within 45 days after delivery of the audit report to the entity's governing body, but no later than 12 months after the end of the fiscal year.

Section 218.32, F.S., provides that each local governmental entity that is determined to be a reporting entity, as defined by generally accepted accounting principles, and each independent special district must submit to the Department of Financial Services (DFS) a copy of its annual financial report for the previous fiscal year in a format prescribed by DFS. Each local governmental entity that is required to provide for an audit in accordance with s. 218.39(1), F.S., must submit the annual financial report with the audit report. A copy of the audit report and annual financial report must be submitted to the department within 45 days after the completion of the audit report but no later than 12 months after the end of the fiscal year. Each local governmental entity that is not required to provide for an audit report in accordance with s. 218.39, F.S., must submit the annual financial report to DFS no later than April 30 of each year. DFS must consult with the Auditor General in the development of the format of annual financial reports submitted pursuant to this paragraph. DFS must forward the financial information contained within these entities' annual financial reports to the Auditor General in electronic form.

Financial Reporting Requirements for Local Pension Plans

Sections 175.261 and 185.221, F.S., specify the financial reporting requirements for firefighter and municipal police pensions, respectively, which generally require an annual independent audit, and an actuarial valuation every three years. The reports must be submitted to DMS' Division of Retirement, which issues an annual report to the Legislature based upon the reporting from the local plans.

III. Effect of Proposed Changes:

Local Plans

Section 1 amends s. 112.66, F.S., to prohibit a plan sponsor from offering or providing membership in a defined benefit retirement system to an employee hired on or after July 1, 2011. For those employees whose terms and conditions of employment are collectively bargained, this provision applies to the first agreement negotiated on or after July 1, 2011.

The bill requires local plans to use a minimum of five years when determining an employee's average final compensation. For those employees whose terms and conditions of employment are collectively bargained, this provision applies to the first agreement negotiated on or after July 1, 2011.

The bill requires local plans that local plans provide death benefits for members killed in the line of duty with minimum standards:

- The surviving spouse of a member killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the member at the time of death for the remainder of the surviving spouse's lifetime.
- If the surviving spouse of a member killed in the line of duty dies, the monthly payments must be paid for the use and benefit of the member's children under 18 years of age and unmarried until the 18th birthday of the member's youngest unmarried child.
- If a member killed in the line of duty leaves no surviving spouse but is survived by children under 18 years of age, the benefits must be paid for the use of the member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest unmarried child.

This death benefits provision does not abrogate other applicable provisions of state or federal law providing death benefits.

Florida Retirement System

Section 2 amends s. 121.051(2), F.S., by adding a new paragraph providing that firefighters' or police officers' pension or retirement plans established in Ch. 175 or 185 are eligible for membership in the FRS at the sole discretion of DMS, and only if the plans have no unfunded liabilities.

Firefighter Pensions

Section 3 amends s. 175.032, F.S., to provide that overtime compensation, unused leave, or any other form of compensation beyond base hourly or annual salary may not be included when calculating the member's compensation or salary.

Section 4 amends s. 175.351, F.S., to specify that premium tax income must first be used to pay down any unfunded actuarial liabilities in a pension plan, before paying for other benefits.

Municipal Police Pensions

Section 5 amends s. s. 185.02, F.S., to provide that overtime compensation, unused leave, or any other form of compensation beyond base hourly or annual salary may not be included when calculating the member's compensation or salary. In implementing this provision, the bill also deletes a provision that allowed up to 300 overtime hours to be included in a retirement benefit calculation.

Section 6 amends s. 185.35, F.S., to specify that premium tax income must first be used to pay down any unfunded actuarial liabilities in a pension plan, before paying for extra benefits.

Financial Rating of Local Plans

Section 7 requires the Department of Financial Services to create and provide standardized ratings for the financial strength of all local government defined benefit plans in Florida, to be provided on the department's website. The ratings must include the following factors:

- Current and future unfunded liabilities;
- The net asset value, managed returns, and funded ratio;
- Metrics related to the sustainability of the plan, including, but not limited to the percentage that the annual contribution is of the participating employee payroll;
- Municipal bond ratings for the local government, if applicable;
- Whether the local government has reduced contribution rates to the plan when the plan has an actuarial surplus; and
- Whether the local government uses any actuarial surplus in the plan for obligations outside the plan.

The department may obtain the data needed to formulate the ratings from all relevant sources, which must cooperate in furnishing the data.

Task Force on Public Employee Disability Presumptions

Section 8 creates the Task Force on Public Employee Disability Presumptions for the purpose of developing findings and issuing recommendations on the disability presumptions applicable to firefighters and police officers employed by the state and local governments.²⁹ The task force consists of nine members to be appointed by July 15, 2011, as follows:

- An attorney in private practice appointed by the President of the Senate;
- A representative of organized labor appointed by the President of the Senate;
- A representative from the Florida League of Cities appointed by the President of the Senate;
- An attorney in private practice appointed by the Speaker of the House;
- A representative of organized labor appointed by the Speaker of the House;
- A representative from the Florida League of Cities appointed by the Speaker of the House;
- A representative from the Auditor General;
- A representative from DMS' Division of Retirement; and
- A representative from the Department of Financial Services.

The task force must address, at a minimum, the following issues:

- Data related to the operation of the statutory disability presumptions;
- How disability presumptions are handled in other states; and
- Proposals for changes to the existing disability presumptions.

By January 1, 2012, the task force must submit, a report to the Legislature and the Governor on recommendations for legislative action to be taken.

Local Government Pension Plan Transparency

Section 9 requires the Department of Financial Services to consider issues related to the transparency of the financial condition of local government pension plans, including:

- Whether and what kinds of local pension plan data should be included in the financial audit reports required under s. 218.39, F.S;

²⁹ Sections 112.18, 185.34, and 175.231, Florida Statutes.

- Whether the reporting requirements related to local police and firefighter pension plans should be supplemented with other types of financial data in order to give a more complete and transparent picture of a local government's financial solvency;
- Proposals for a uniform format for providing pension data, including standard terminology and the specific types of data which should be provided, including funding ratios, and whether contributions are sufficient to fund actuarial liabilities;
- Whether to require local governments to provide pension financial data on local public websites;
- Other related issues, including insurance benefits, health care benefits, postemployment plan benefits; and
- Proposals related to the composition of local pension plan boards.

The department must report its recommendations to the Legislature and Governor by December 1, 2011.

Important State Interest

Section 10 provides that the Legislature determines that the bill fulfills an important state interest as related to public pension plans.

Effective Date

Section 11 provides that the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill would require a local government to expend funds to comply with its terms, the provisions of section 18(a) of article VII of the State Constitution may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest (done in section 10 of the bill) and one of the following relevant exceptions must apply:

- a. funds estimated at the time of enactment to be sufficient to fund such expenditures are appropriated;
- b. Counties and cities are authorized to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- c. the expenditure is required to comply with a law that applies to all persons similarly situated; or
- d. the law must be approved by two-thirds of the membership of each house of the Legislature.

It is unclear whether this constitutional provision applies, given that some of the provisions in the bill should reduce long term costs to local governments, while the provision requiring a death benefit could increase costs. The issue is further compounded by the fact that premium tax income pays for at least some of the retirement benefits in plans created pursuant to Chapters 175 and 185, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Some of the provisions of the bill may help reduce local plans' long term unfunded liabilities. The provision requiring a death benefit requires local governments to fund the benefit. Any costs or savings caused by the bill are indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 57 through 63 may not be necessary, since the effect of another provision in the bill is to prohibit used of defined benefit plans after July 1, 2011.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (11) through (16) are added to
section 112.66, Florida Statutes, to read:

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:

(11) A plan sponsor may not offer or provide membership in
a defined benefit retirement system or plan to an employee hired
on or after July 1, 2011. For those members whose terms and



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13 conditions of employment are collectively bargained, this
14 subsection is effective for the first agreement negotiated on or
15 after July 1, 2011. Compliance with this subsection does not
16 disqualify a plan or plan sponsor from receiving premium tax
17 revenues pursuant to chapters 175 and 185.

18 (12) Effective July 1, 2011, for purposes of calculating
19 retirement benefits, a pension system or plan sponsored by a
20 local government may not include any overtime, unused leave, or
21 any other form of compensation beyond base hourly or annual
22 salary in calculating a member's compensation or salary. For
23 those members whose terms and conditions of employment are
24 collectively bargained, this subsection is effective for the
25 first agreement negotiated on or after July 1, 2011.

26 (13) An actuarial or cash surplus in any system or plan may
27 not be used for any expenses outside the plan.

28 (14) A plan or system may not temporarily reduce
29 contributions required to fund normal cost.

30 (15) For each member hired on or after July 1, 2011, the
31 local government shall provide a disability retirement benefit
32 that meets the following minimum standards:

33 (a) A member who becomes totally and permanently disabled,
34 as defined in s. 121.091(4) (b), after completing a specified
35 amount of service as determined by the local government, is
36 entitled to a monthly disability benefit.

37 (b) The local government must specify what constitutes
38 permanent and total disability, how to determine proof of
39 disability, provisions related to recovery from disability, and
40 other necessary components of a disability retirement program.

41 (16) For each member who is a firefighter, police officer,



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42 or correctional officer hired on or after July 1, 2011, local
43 government shall provide a death benefit entitlement and
44 payments that meet the following minimum standards:

45 (a) The surviving spouse of a member killed in the line of
46 duty may receive a monthly pension equal to one-half of the
47 monthly salary being received by the member at the time of death
48 for the remainder of the surviving spouse's life.

49 (b) If the surviving spouse of a member killed in the line
50 of duty dies, the monthly payments that would have been payable
51 to the surviving spouse had such surviving spouse lived shall be
52 paid for the use and benefit of the member's children under 18
53 years of age and unmarried until the 18th birthday of the
54 member's youngest unmarried child.

55 (c) If a member killed in the line of duty leaves no
56 surviving spouse but is survived by children under 18 years of
57 age, the benefits normally payable to a surviving spouse shall
58 be paid for the use and benefit of the member's child or
59 children under 18 years of age and unmarried until the 18th
60 birthday of the member's youngest unmarried child.

61
62 This subsection does not abrogate other applicable provisions of
63 state or federal law providing death benefits.

64 Section 2. Paragraph (g) is added to subsection (2) of
65 section 121.051, Florida Statutes, to read:

66 121.051 Participation in the system.—

67 (2) OPTIONAL PARTICIPATION.—

68 (g) A local government retirement system or plan, including
69 a firefighters' pension plan or a municipal police officers'
70 retirement plan established in accordance with chapter 175 or



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71 chapter 185, is eligible for membership under this chapter if
72 the plan has no unfunded actuarial liabilities.

73 Section 3. Subsection (3) of section 175.032, Florida
74 Statutes, is amended to read:

75 175.032 Definitions.—For any municipality, special fire
76 control district, chapter plan, local law municipality, local
77 law special fire control district, or local law plan under this
78 chapter, the following words and phrases have the following
79 meanings:

80 (3) "Compensation" or "salary" for service earned and
81 collective bargaining agreements in place before July 1, 2011,
82 means the fixed monthly remuneration paid a firefighter. If
83 ~~where, as in the case of a volunteer firefighter,~~ remuneration
84 is based on actual services rendered, as in the case of a
85 volunteer firefighter, the term means the total cash
86 remuneration received yearly for such services, prorated on a
87 monthly basis. For service earned and collective bargaining
88 agreements entered into on or after July 1, 2011, overtime
89 compensation, unused leave, or any other form of compensation
90 beyond base hourly or annual salary may not be included when
91 calculating a member's compensation or salary.

92 ~~(a) A retirement trust fund or plan may use a definition of~~
93 ~~salary other than the definition in this subsection but only if~~
94 ~~the monthly retirement income payable to each firefighter~~
95 ~~covered by the retirement trust fund or plan, as determined~~
96 ~~under s. 175.162(2) (a) and using such other definition, equals~~
97 ~~or exceeds the monthly retirement income that would be payable~~
98 ~~to each firefighter if his or her monthly retirement income were~~
99 ~~determined under s. 175.162(2) (a) and using the definition in~~



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100 ~~this subsection.~~

101 ~~(a)(b)~~ Any retirement trust fund or plan ~~that which now or~~
102 ~~hereafter~~ meets the requirements of this chapter does ~~shall~~ not,
103 solely by virtue of this subsection, reduce or diminish the
104 monthly retirement income otherwise payable to each firefighter
105 covered by the retirement trust fund or plan.

106 ~~(b)(e)~~ The member's compensation or salary contributed as
107 employee-elective salary reductions or deferrals to any salary
108 reduction, deferred compensation, or tax-sheltered annuity
109 program authorized under the Internal Revenue Code shall be
110 deemed to be the compensation or salary the member would receive
111 if he or she were not participating in such program and ~~shall be~~
112 treated as compensation for retirement purposes under this
113 chapter.

114 ~~(c)(d)~~ For any person who first becomes a member in any
115 plan year beginning on or after January 1, 1996, compensation
116 for that ~~any~~ plan year may ~~shall~~ not include any amounts in
117 excess of the Internal Revenue Code s. 401(a)(17) limitation,
118 ~~(as amended by the Omnibus Budget Reconciliation Act of 1993),~~
119 which limitation of \$150,000 shall be adjusted as required by
120 federal law for qualified government plans and shall be further
121 adjusted for changes in the cost of living in the manner
122 provided by Internal Revenue Code s. 401(a)(17)(B). For any
123 person who first became a member before ~~prior to~~ the first plan
124 year beginning on or after January 1, 1996, the limitation on
125 compensation may ~~shall be~~ not be less than the maximum
126 compensation amount that was allowed to be taken into account
127 under the plan ~~as~~ in effect on July 1, 1993, which limitation
128 shall be adjusted for changes in the cost of living since 1989



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129 in the manner provided by Internal Revenue Code s.
130 401(a) (17) (1991).

131 Section 4. Section 175.351, Florida Statutes, is amended to
132 read:

133 175.351 Municipalities and special fire control districts
134 having their own pension plans for firefighters.—For any
135 municipality, special fire control district, local law
136 municipality, local law special fire control district, or local
137 law plan under this chapter, in order for municipalities and
138 special fire control districts with their own pension plans for
139 firefighters, or for firefighters and police officers if, where
140 included, to participate in the distribution of the tax fund
141 established pursuant to s. 175.101, local law plans must meet
142 the minimum benefits and minimum standards set forth in this
143 chapter.

144 (1) ~~PREMIUM TAX INCOME.~~—If a municipality has a pension
145 plan for firefighters, or a pension plan for firefighters and
146 police officers if, where included, which in the opinion of the
147 division meets the minimum benefits and minimum standards set
148 forth in this chapter, all premium tax revenues received by the
149 municipality in excess of the adjusted base amount and all
150 accumulated excess premium tax revenues held in reserve must
151 first be used to pay the unfunded actuarial accrued liabilities
152 of the plan. After all unfunded actuarial accrued liabilities
153 are paid, the board of trustees of the pension plan, as approved
154 by a majority of firefighters of the municipality, may:

155 (a) Place the income from the premium tax in s. 175.101 in
156 such pension plan for the sole and exclusive use of its
157 firefighters, or for firefighters and police officers if, where



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158 included, where it shall become an integral part of that pension
159 plan and ~~shall be~~ used to pay extra benefits to the firefighters
160 included in that pension plan; or

161 (b) Place the income from the premium tax in s. 175.101 in
162 a separate supplemental plan to pay extra benefits to
163 firefighters, or to firefighters and police officers if ~~where~~
164 included, participating in such separate supplemental plan.

165 (2) The premium tax provided by this chapter shall in all
166 cases be used in its entirety to provide retirement ~~extra~~
167 benefits to firefighters, or to firefighters and police officers
168 if, ~~where~~ included. However, local law plans in effect on
169 October 1, 1998, must ~~shall be required to~~ comply with the
170 minimum benefit provisions of this chapter only to the extent
171 that additional premium tax revenues become available to
172 incrementally fund the cost of such compliance as provided in s.
173 175.162(2) (a). If ~~When~~ a plan is in compliance with such minimum
174 benefit provisions, as subsequent additional premium tax
175 revenues become available, they must ~~shall~~ be used to provide
176 extra benefits, except as provided in subsection (1). For the
177 purpose of this chapter, "additional premium tax revenues" means
178 revenues received by a municipality or special fire control
179 district pursuant to s. 175.121 which exceed that amount
180 received for calendar year 1997, and the term "extra benefits"
181 means benefits in addition to or greater than those provided to
182 general employees of the municipality and in addition to those
183 in existence for firefighters on March 12, 1999. Local law plans
184 created by special act before May 23, 1939, shall be deemed to
185 comply with this chapter.

186 ~~(3)-(2) A ADOPTION OR REVISION OF A LOCAL LAW PLAN. No~~



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187 retirement plan or amendment to a retirement plan may not shall
188 be proposed for adoption unless the proposed plan or amendment
189 contains an actuarial estimate of the costs involved. ~~No~~ Such
190 proposed plan or proposed plan change may not shall be adopted
191 without the approval of the municipality, special fire control
192 district, or, where permitted, the Legislature. Copies of the
193 proposed plan or proposed plan change and the actuarial impact
194 statement of the proposed plan or proposed plan change shall be
195 furnished to the division before ~~prior to~~ the last public
196 hearing thereon. Such statement must shall also indicate whether
197 the proposed plan or proposed plan change is in compliance with
198 s. 14, Art. X of the State Constitution and those provisions of
199 part VII of chapter 112 which are not expressly provided in this
200 chapter. Notwithstanding any other provision, only those local
201 law plans created by special act of legislation before ~~prior to~~
202 May 23, 1939, are shall be deemed to meet the minimum benefits
203 and minimum standards only in this chapter.

204 (4)(3) Notwithstanding any other provision, with respect to
205 any supplemental plan municipality:

206 (a) ~~Section 175.032(3)(a) shall not apply,~~ and A local law
207 plan and a supplemental plan may continue to use their
208 definition of compensation or salary in existence on the
209 effective date of this act.

210 (b) Section 175.061(1)(b) does shall not apply, and a local
211 law plan and a supplemental plan shall continue to be
212 administered by a board or boards of trustees numbered,
213 constituted, and selected as the board or boards were numbered,
214 constituted, and selected on December 1, 2000.

215 (c) The election set forth in paragraph (1)(b) is shall be



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216 deemed to have been made.

217 ~~(5)~~~~(4)~~ The retirement plan setting forth the benefits and
218 the trust agreement, if any, covering the duties and
219 responsibilities of the trustees and the regulations of the
220 investment of funds must be in writing, and copies ~~thereof must~~
221 ~~be~~ made available to the participants and to the general public.

222 Section 5. Subsection (4) of section 185.02, Florida
223 Statutes, is amended to read:

224 185.02 Definitions.—For any municipality, chapter plan,
225 local law municipality, or local law plan under this chapter,
226 the following words and phrases as used in this chapter shall
227 have the following meanings, unless a different meaning is
228 plainly required by the context:

229 (4) "Compensation" or "salary" for service earned and
230 collective bargaining agreements in place before July 1, 2011,
231 means the total cash remuneration including "overtime" paid by
232 the primary employer to a police officer for services rendered,
233 but not including any payments for extra duty or a special
234 detail work performed on behalf of a second party employer. For
235 service earned and collective bargaining agreements in place
236 before July 1, 2011 ~~However,~~ a local law plan may limit the
237 amount of overtime payments which can be used for retirement
238 benefit calculation purposes; however, ~~but in no event shall~~
239 such overtime limit may not be less than 300 hours per officer
240 per calendar year. For service earned and collective bargaining
241 agreements entered into on or after July 1, 2011, total cash
242 remuneration may not include payments for extra duty or special
243 detail work performed on behalf of a second party employer, or
244 any overtime, unused leave, or other compensation beyond base



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245 hourly or annual salary.

246 (a) Any retirement trust fund or plan that ~~which now or~~
247 ~~hereafter~~ meets the requirements of this chapter does ~~shall~~ not,
248 solely by virtue of this subsection, reduce or diminish the
249 monthly retirement income otherwise payable to each police
250 officer covered by the retirement trust fund or plan.

251 (b) The member's compensation or salary contributed as
252 employee-elective salary reductions or deferrals to any salary
253 reduction, deferred compensation, or tax-sheltered annuity
254 program authorized under the Internal Revenue Code shall be
255 deemed to be the compensation or salary the member would receive
256 if he or she were not participating in such program and ~~shall be~~
257 treated as compensation for retirement purposes under this
258 chapter.

259 (c) For any person who first becomes a member in any plan
260 year beginning on or after January 1, 1996, compensation for
261 that ~~any~~ plan year may ~~shall~~ not include any amounts in excess
262 of the Internal Revenue Code s. 401(a)(17) limitation, ~~(as~~
263 ~~amended by the Omnibus Budget Reconciliation Act of 1993)~~, which
264 limitation of \$150,000 shall be adjusted as required by federal
265 law for qualified government plans and shall be further adjusted
266 for changes in the cost of living in the manner provided by
267 Internal Revenue Code s. 401(a)(17)(B). For any person who first
268 became a member before ~~prior to~~ the first plan year beginning on
269 or after January 1, 1996, the limitation on compensation may
270 ~~shall be~~ not be less than the maximum compensation amount that
271 was allowed to be taken into account under the plan as in effect
272 on July 1, 1993, which limitation shall be adjusted for changes
273 in the cost of living since 1989 in the manner provided by



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274 Internal Revenue Code s. 401(a)(17)(1991).

275 Section 6. Section 185.35, Florida Statutes, is amended to
276 read:

277 185.35 Municipalities having their own pension plans for
278 police officers.—For any municipality, chapter plan, local law
279 municipality, or local law plan under this chapter, in order for
280 municipalities with their own pension plans for police officers,
281 or for police officers and firefighters if where included, to
282 participate in the distribution of the tax fund established
283 pursuant to s. 185.08, local law plans must meet the minimum
284 benefits and minimum standards set forth in this chapter:

285 (1) ~~PREMIUM TAX INCOME.~~—If a municipality has a pension
286 plan for police officers, or for police officers and
287 firefighters if where included, which, in the opinion of the
288 division, meets the minimum benefits and minimum standards set
289 forth in this chapter, all premium tax revenues received by the
290 municipality in excess of the adjusted base amount and all
291 accumulated excess premium tax revenues held in reserve, must
292 first be used to pay off the unfunded actuarial accrued
293 liabilities of the plan. After all unfunded actuarial accrued
294 liabilities are paid off, the board of trustees of the pension
295 plan, as approved by a majority of police officers of the
296 municipality, may:

297 (a) Place the income from the premium tax in s. 185.08 in
298 such pension plan for the sole and exclusive use of its police
299 officers, or its police officers and firefighters if where
300 included, where it shall become an integral part of that pension
301 plan and ~~shall~~ be used to pay extra benefits to the police
302 officers included in that pension plan; or



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303 (b) May place the income from the premium tax in s. 185.08
304 in a separate supplemental plan to pay extra benefits to the
305 police officers, or police officers and firefighters if ~~where~~
306 included, participating in such separate supplemental plan.

307 (2) The premium tax provided by this chapter shall in all
308 cases be used in its entirety to provide retirement ~~extra~~
309 benefits to police officers, or to police officers and
310 firefighters if, ~~where~~ included. However, local law plans in
311 effect on October 1, 1998, must ~~shall be required to~~ comply with
312 the minimum benefit provisions of this chapter only to the
313 extent that additional premium tax revenues become available to
314 incrementally fund the cost of such compliance as provided in s.
315 185.16(2). If ~~When~~ a plan is in compliance with such minimum
316 benefit provisions, as subsequent additional tax revenues become
317 available, they shall be used to provide extra benefits, except
318 as provided under subsection (1). For the purpose of this
319 chapter, "additional premium tax revenues" means revenues
320 received by a municipality pursuant to s. 185.10 which exceed
321 the amount received for calendar year 1997, and the term "extra
322 benefits" means benefits in addition to or greater than those
323 provided to general employees of the municipality and in
324 addition to those in existence for police officers on March 12,
325 1999. Local law plans created by special act before May 23,
326 1939, shall be deemed to comply with this chapter.

327 (3) ~~(2) A ADOPTION OR REVISION OF A LOCAL LAW PLAN. No~~
328 retirement plan or amendment to a retirement plan may not ~~shall~~
329 be proposed for adoption unless the proposed plan or amendment
330 contains an actuarial estimate of the costs involved. ~~No~~ Such
331 proposed plan or proposed plan change may not ~~shall~~ be adopted



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332 without the approval of the municipality or, where permitted,
333 the Legislature. Copies of the proposed plan or proposed plan
334 change and the actuarial impact statement of the proposed plan
335 or proposed plan change shall be furnished to the division
336 before ~~prior to~~ the last public hearing thereon. Such statement
337 must ~~shall~~ also indicate whether the proposed plan or proposed
338 plan change is in compliance with s. 14, Art. X of the State
339 Constitution and those provisions of part VII of chapter 112
340 which are not expressly provided in this chapter.

341 Notwithstanding any other provision, only those local law plans
342 created by special act of legislation before ~~prior to~~ May 23,
343 1939, are ~~shall be~~ deemed to meet the minimum benefits and
344 minimum standards only in this chapter.

345 (4) ~~(3)~~ Notwithstanding any other provision, with respect to
346 any supplemental plan municipality:

347 (a) Section 185.02(4)(a) does ~~shall~~ not apply, and a local
348 law plan and a supplemental plan may continue to use their
349 definition of compensation or salary in existence on March 12,
350 1999 ~~the effective date of this act.~~

351 (b) Section 185.05(1)(b) does ~~shall~~ not apply, and a local
352 law plan and a supplemental plan shall continue to be
353 administered by a board or boards of trustees numbered,
354 constituted, and selected as the board or boards were numbered,
355 constituted, and selected on December 1, 2000.

356 (c) The election set forth in paragraph (1)(b) is ~~shall be~~
357 deemed to have been made.

358 (5) ~~(4)~~ The retirement plan setting forth the benefits and
359 the trust agreement, if any, covering the duties and
360 responsibilities of the trustees and the regulations of the



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361 investment of funds must be in writing and copies made available
362 to the participants and to the general public.

363 Section 7. Financial rating of local pension plans.—The
364 Department of Financial Services shall develop standardized
365 ratings for classifying the financial strength of all local
366 government defined benefit pension plans.

367 (1) In assigning a rating to a plan, the department shall
368 consider, but need not be limited to:

369 (a) The plan's current and future unfunded liabilities.

370 (b) The plan's net asset value, managed returns, and funded
371 ratio.

372 (c) Metrics related to the sustainability of the plan,
373 including, but not limited to, the percentage that the annual
374 contribution is of the participating employee payroll.

375 (d) Municipal bond ratings for the local government, if
376 applicable.

377 (e) Whether the local government has reduced contribution
378 rates to the plan when the plan has an actuarial surplus.

379 (f) Whether the local government uses any actuarial surplus
380 in the plan for obligations outside the plan.

381 (2) The department may obtain all necessary data to
382 formulate the ratings from all relevant entities, including
383 local pension boards, local governments, and the Division of
384 Retirement, all of which shall cooperate with the department in
385 supplying all necessary information.

386 (3) The ratings shall be posted on the department's website
387 in a standardized format.

388 Section 8. Task Force on Public Employee Disability
389 Presumptions.—



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390 (1) The Task Force on Public Employee Disability
391 Presumptions is created for the purpose of developing findings
392 and issuing recommendations on the disability presumptions in
393 ss. 112.18, 185.34, and 175.231, Florida Statutes.

394 (2) All members of the task force shall be appointed on or
395 before July 15, 2011, and the task force shall hold its first
396 meeting on or before August 15, 2011. The task force shall be
397 composed of nine members as follows:

398 (a) Three members appointed by the President of the Senate,
399 one of whom must be an attorney in private practice who has
400 experience in the relevant laws; one of whom must be a
401 representative of organized labor; and one of whom must be from
402 the Florida Association of Counties.

403 (b) Three members appointed by the Speaker of the House of
404 Representatives, one of whom must be an attorney in private
405 practice who has experience in the relevant laws; one of whom
406 must be a representative of organized labor; and one of whom
407 must be from the Florida League of Cities.

408 (c) A member employed by the Office of the Auditor General
409 who has experience in local government auditing and finances.

410 (d) A member employed by the Department of Management
411 Services' Division of Retirement who has experience in local
412 government pension plans, appointed by the Governor.

413 (e) A member employed by the Department of Financial
414 Services who has relevant expertise in state risk management,
415 appointed by the Chief Financial Officer.

416 (3) The task force shall address issues, including, but not
417 limited to:

418 (a) Data related to the operation of the statutory



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419 disability presumptions.

420 (b) How disability presumptions are handled in other
421 states.

422 (c) Proposals for changes to the existing disability
423 presumptions.

424 (4) The Department of Financial Services shall provide
425 administrative support to the task force.

426 (5) Members of the task force shall serve without
427 compensation while in the performance of their duties, but are
428 entitled to reimbursement for per diem and travel expenses in
429 accordance with s. 112.061, Florida Statutes.

430 (6) The task force may obtain data, information, and
431 assistance from any officer or state agency and any political
432 subdivision thereof. All such officers, agencies, and political
433 subdivisions shall provide the task force with all relevant
434 information and assistance on any matter within their knowledge
435 or control.

436 (7) The task force shall submit a report, including
437 findings and recommendations, to the Governor, the Chief
438 Financial Officer, the President of the Senate, and the Speaker
439 of the House of Representatives by January 1, 2012. The report
440 must include specific recommendations for legislative action
441 during the 2012 Regular Session of the Legislature.

442 (8) The task force is dissolved upon submission of its
443 report.

444 Section 9. By December 1, 2011, the Department of Financial
445 Services shall submit a report and recommendations to the
446 Governor, the President of the Senate, and the Speaker of the
447 House of Representatives on actions to be taken to increase the



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448 visibility and transparency of local government pension plans,
449 including, but not limited to, those created pursuant to
450 chapters 175 and 185, Florida Statutes, with the goal of
451 increasing the ability of a taxpayer or policymaker to assess
452 the financial health of the local plans. The report must include
453 specific recommendations for legislative action during the 2012
454 Regular Session of the Legislature. The department shall consult
455 with the Legislature's office of Economic and Demographic
456 Research in formulating the recommendations, which must address,
457 but need not be limited to:

458 (1) Whether and what kinds of local pension plan data
459 should be included in the financial audit reports required under
460 s. 218.39, Florida Statutes.

461 (2) Whether the reporting requirements of ss. 175.261 and
462 185.221, Florida Statutes, should be supplemented with other
463 types of financial data in order to give a more complete and
464 transparent picture of a local government's financial solvency.

465 (3) Proposals for a uniform format for providing pension
466 data, including standard terminology and data and the specific
467 types of data which should be provided, including funding
468 ratios, and whether contributions are sufficient to fund
469 actuarial liabilities.

470 (4) Whether to require local governments to provide pension
471 financial data on local public websites.

472 (5) Other related issues, including insurance benefits,
473 health care benefits, and postemployment plan benefits.

474 (6) Proposals related to the composition of local pension
475 plan boards.

476 Section 10. The Legislature finds that a proper and



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477 legitimate state purpose is served when employees and retirees
478 of the state and of its political subdivisions, and the
479 dependents, survivors, and beneficiaries of those employees and
480 retirees, are extended the basic protections afforded by
481 governmental retirement systems that provide fair and adequate
482 benefits and that are managed, administered, and funded in an
483 actuarially sound manner as required by s. 14, Article X of the
484 State Constitution and part VII of chapter 112, Florida
485 Statutes. Therefore, the Legislature determines and declares
486 that this act fulfills an important state interest.

487 Section 11. This act shall take effect July 1, 2011.

488
489 ===== T I T L E A M E N D M E N T =====

490 And the title is amended as follows:

491 Delete everything before the enacting clause
492 and insert:

493 A bill to be entitled
494 An act relating to public retirement plans; amending
495 s. 112.66, F.S.; providing that a local governmental
496 entity may not offer a defined benefit retirement plan
497 to a plan member hired on or after a certain date;
498 providing for the calculation of retirement benefits
499 after a certain date; providing a prohibition on the
500 use of plan revenues; prohibiting a reduction in
501 certain contributions to a plan; requiring a plan to
502 provide disability benefits after a certain date;
503 providing a death benefit for the spouse and minor
504 children of a member hired after a certain date who is
505 killed in the line of duty; amending s. 121.051, F.S.;



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506 providing that a plan is eligible for participation in
507 the Florida Retirement System if it has no unfunded
508 actuarial liabilities; amending s. 175.032, F.S.;
509 revising the definition of the term "compensation" or
510 "salary" for purposes of firefighter pensions;
511 amending s. 175.351, F.S.; revising provisions
512 relating to benefits paid from the premium tax by a
513 municipality or special fire control district that has
514 its own pension plan; conforming a cross-reference;
515 amending s. 185.02, F.S.; revising the definition of
516 the terms "compensation" or "salary" for purposes of
517 police officer pensions; amending s. 185.35, F.S.;
518 revising provisions relating to benefits paid by a
519 municipality that has its own pension plan; directing
520 the Department of Financial Services to rate the
521 financial strength of local government defined benefit
522 plans; specifying the factors for assigning the
523 ratings; requiring certain entities to cooperate in
524 providing data for the ratings; requiring the ratings
525 to be posted on the department's website; creating the
526 Task Force on Public Employee Disability Presumptions;
527 providing for appointment and membership; specifying
528 the issues for the task force to address; providing
529 for a report to be submitted to the Governor, Chief
530 Financial Officer, and Legislature by a certain date;
531 providing for expiration; directing the Department of
532 Financial Services to submit a report on the financial
533 health of local government pension plans to the
534 Governor and Legislature by a certain date; specifying



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535 the issues the report must address; providing a
536 declaration of important state interest; providing an
537 effective date.



338756

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

1 **Senate Amendment to Amendment (762940) (with title**
2 **amendment)**

3
4 Delete lines 5 - 41
5 and insert:

6 Section 1. Subsections (11) through (15) are added to
7 section 112.66, Florida Statutes, to read:

8 112.66 General provisions.—The following general provisions
9 relating to the operation and administration of any retirement
10 system or plan covered by this part shall be applicable:

11 (11) Effective July 1, 2011, for purposes of calculating
12 retirement benefits, a pension system or plan sponsored by a



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13 local government may not include any overtime, unused leave, or
14 any other form of compensation beyond base hourly or annual
15 salary in calculating a member's compensation or salary. For
16 those members whose terms and conditions of employment are
17 collectively bargained, this subsection is effective for the
18 first agreement negotiated on or after July 1, 2011.

19 (12) An actuarial or cash surplus in any system or plan may
20 not be used for any expenses outside the plan.

21 (13) A plan or system may not temporarily reduce
22 contributions required to fund normal cost.

23 (14) For each member hired on or after July 1, 2011, the
24 local government shall provide a disability retirement benefit
25 that meets the following minimum standards:

26 (a) A member who becomes totally and permanently disabled,
27 as defined in s. 121.091(4)(b), after completing a specified
28 amount of service as determined by the local government, is
29 entitled to a monthly disability benefit.

30 (b) The local government must specify what constitutes
31 permanent and total disability, how to determine proof of
32 disability, provisions related to recovery from disability, and
33 other necessary components of a disability retirement program.

34 (15) For each member who is a firefighter, police officer,
35

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

37 And the title is amended as follows:

38 Delete lines 495 - 497

39 and insert:

40 s. 112.66, F.S.;



497304

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

Senate Amendment to Amendment (762940)

Delete line 20

and insert:

local government may not include more than 300 hours per year of
overtime, unused leave, or

Delete line 89

and insert:

compensation in excess of 300 hours per year, unused leave, or
any other form of compensation



422222

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

Senate Amendment to Amendment (762940)

Delete lines 150 - 151

and insert:

accumulated excess premium tax revenues held in reserve may be
used only once to pay the unfunded actuarial accrued liabilities



313084

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

Senate Amendment to Amendment (762940)

Delete line 244

and insert:

any overtime in excess of 300 hours per year, unused leave, or
other compensation beyond base



452798

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Latvala) recommended the following:

Senate Amendment to Amendment (762940)

Delete lines 291 - 292

and insert:

accumulated excess premium tax revenues held in reserve, may be
used only once to pay off the unfunded actuarial accrued

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: SB 1130

INTRODUCER: Senator Ring

SUBJECT: Florida Retirement System

DATE: February 10, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Naf	Roberts	GO	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill makes the following changes to the Florida Retirement System (FRS):

- Closes the defined benefit plan to members enrolled on or after July 1, 2011, and requires members enrolling on or after that date to enter the defined contribution plan.
- Changes vesting for members enrolled in the defined contribution plan on or after July 1, 2011. They will vest in graded increments over a five-year period.
- Changes the FRS from a noncontributory system to a contributory system and requires each active member of the FRS to contribute a percentage of gross salary to fund retirement benefits, effective July 1, 2011.
- Amends the definitions of “compensation” and “average final compensation” to exclude overtime and accumulated annual leave for all members, effective July 1, 2011.
- Creates an additional death benefit for members of the defined contribution plan who are killed in the line of duty.

The bill also:

- Establishes the required employer payroll contribution rates for each membership class and subclass of the FRS retirement plan for the fiscal year beginning July 1, 2011.
- Requires each active member of the Senior Management Service Optional Annuity Program, the State University System Optional Retirement Program, and the Community College Optional Retirement Program to contribute the same percentage of gross salary to fund retirement benefits as those contributed by FRS employees, effective July 1, 2011.
- Creates conforming and implementing provisions related to the substantive changes.

This bill substantially amends the following sections of the Florida Statutes:

110.123, 112.0801, 112.363, 112.65, 121.011, 121.021, 121.051, 121.0515, 121.052, 121.053, 121.055, 121.071, 121.081, 121.091, 121.121, 121.125, 121.35, 121.4501, 121.4502, 121.4503, 121.571, 121.591, 121.5911, 121.70, 121.71, 121.72, 121.73, 121.74, 121.77, 121.78, and 1012.875.

II. Present Situation:

Florida Retirement System

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to the 572,000 active and 319,000 retired members and beneficiaries of its more than 900 state and local government public employers. Originally established in 1970 as the successor to the Teachers' Retirement System and the State, and County Officers' and Employees' Retirement System, the FRS is today a combination of five previously separate pension plans. Benefit payments are administered by the Department of Management Services through its Division of Retirement while investment management is undertaken by the Board of Administration. Established as a Section 401(a) government plan under the Internal Revenue Code, its benefits are exempt from federal taxation until received by the employee.

As a defined benefit plan, the FRS "Pension Plan" provides retirement income expressed as a percent of final pay. Participants accrue retirement credits based upon their eligibility in one of several membership classes. Years of creditable service multiplied by average final salary multiplied by the accrual rate for the membership class, plus up to 500 hours of annual leave, yield a monthly annuity benefit at normal retirement. The accrual rates range from 1.60 percent for the Regular Class to 3.33 percent for Justices and Judges. For most membership classes normal retirement occurs at the earlier attainment of 30 years' service or age 62. For public safety employees in the Special Risk Retirement and Special Risk Administrative Support Classes, normal retirement is the earlier attainment of age 55 or 25 years' service. Members seeking early retirement dates receive a five percent reduction in the benefit for each year below their normal age threshold.

All membership classes in the Pension Plan permit enrollment in a Deferred Retirement Option Program (DROP) under which a participant may extend employment for an additional five years - eight years for instructional personnel in district school boards - and receive a lump sum benefit at a fixed rate of interest, currently 6.5 percent, for that additional service. Enrollment in DROP requires the participant to serve the employer with a deferred resignation from employment at the end of the period. The defined benefit plan includes a fixed, annual cost-of-living adjustment of 3 percent.

The 2000 Legislature enacted sweeping changes to the FRS by creating the Public Employees Optional Retirement Program (Part II of ch. 121, F.S.), an alternative defined contribution or "Investment Plan" for its members. While a defined benefit plan provides an annuitized monthly benefit expressed as a percent of final pay, a defined contribution plan gives members an equity interest in their employer's payroll contributions and their earnings, although it does not assure a guaranteed result. DROP enrollment is unavailable in the Investment Plan due to the incompatibility of plan designs.

Reenrollment in the FRS is prohibited for retirees who are initially reemployed on or after July 1, 2010.

Management employees and instructional employees in higher educational units are also permitted to enroll in one of three other separate optional retirement programs that exist outside of FRS authority.

Employer Contribution Rates

FRS employers are responsible for contributing a set percentage of their employee's monthly compensation to the Division of Retirement to be distributed into the Florida Retirement System Contributions Clearing Trust Fund. The employer is required to make these contributions no later than the fifth working day of the month following the end of the payroll period.¹

The employer contribution rate is a "blended contribution rate" set by statute, which is the same percentage regardless of which plan their employee participates in. The rate is determined annually based on an actuarial study by the Department of Management Services that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.² The current employer contribution rate for each membership class is:

¹ Section 121.78, F.S.

² Section 112.63, F.S.

Membership Class	Effective July 1, 2009	Effective July 1, 2010
Regular Class	8.69 %	9.63 %
Special Risk Class	19.76 %	22.11 %
Special Risk Administrative Support Class	11.39 %	12.10 %
Elected Officer's Class <ul style="list-style-type: none"> • Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders • Justices and Judges • County Officers 	13.32 % 18.40 % 15.37 %	15.20 % 20.65 % 17.50 %
Senior Management Class	11.96 %	13.43 %

3

After employer contributions are placed into the FRS Contributions Clearing Trust Fund, benefits under the Investment Plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas benefits under the Pension Plan are placed into the FRS Trust Fund.⁴

Calculation of Pension Plan Benefits

Benefits payable to a pension plan retiree are calculated using formulas that include the average final compensation. "Average final compensation" means the average of the 5 highest fiscal years of compensation for creditable service prior to retirement, termination, or death. The average final compensation includes accumulated annual leave payments, not to exceed 500 hours, and all payments defined as compensation in s. 121.021(22). The average final compensation does not include compensation paid to professional persons for special or particular services; payments for accumulated sick leave made due to retirement or termination; payments for accumulated annual leave in excess of 500 hours; bonuses as defined in s. 121.021(47); third party payments made on or after July 1, 1990; or fringe benefits such as automobile or housing allowances.⁵

"Compensation" means the monthly salary paid a member by his or her employer for work performed arising from that employment. Compensation includes overtime payments paid from a salary fund; accumulated annual leave payments; payments in addition to the employee's base rate of pay if specified conditions apply; amounts withheld for tax sheltered annuities or deferred compensation programs, or any other type of salary reduction plan authorized under the Internal Revenue Code.⁶

³ Section 121.71, F.S.

⁴ See ss. 121.4503 and 121.72, F.S.

⁵ Section 121.021(24), F.S.

⁶ Section 121.021(22), F.S.

Investment Plan Death Benefit

In the event of the death of a participant in the investment plan, vested benefits will be paid to the participant's designated beneficiary or beneficiaries.⁷

Optional Retirement Programs

Eligible employees may elect to participate in one of three optional retirement programs in lieu of participation in the FRS.

Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program.⁸ Employees in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program.⁹ Eligible employees of a community college may elect to enroll in the Community College Optional Retirement Program.¹⁰

III. Effect of Proposed Changes:

Section 1 amends s. 110.123, F.S., to make technical drafting changes and to make a conforming change to the name change to the FRS defined contribution program.

Section 2 amends 112.0801, F.S., to make technical drafting changes.

Section 3 amends s. 112.363, F.S., to make technical drafting changes and to make conforming changes to the name change to the FRS defined contribution program.

Section 4 amends 112.65, F.S., to make technical drafting changes and to make a conforming change to the name change to the FRS defined contribution program.

Section 5 amends s. 121.011, F.S., to require employee contributions effective July 1, 2011.

Section 6 amends s. 121.021, F.S., to:

- Amend the definition of "compensation" for purposes of the FRS defined benefit program to exclude overtime payments paid from a salary fund and accumulated annual leave payments.
- Amend the definition of "average final compensation" for purposes of the FRS defined benefit program to exclude accumulated annual leave payments and overtime payments paid from a salary fund.
- Make technical drafting changes; make a conforming change to the name change to the FRS defined contribution program; and make conforming changes to the implementation of employee contributions.

Section 7 amends s. 121.051, F.S., to:

⁷ Section 121.591(3), F.S.

⁸ Section 121.055(6), F.S.

⁹ Section 121.35, F.S.

¹⁰ Section 1012.875, F.S.

- Make technical drafting changes and to make a conforming change to the name change to the FRS defined contribution program.
- Provide that the governing body of a charter school joining the FRS prior to July 1, 2011, may elect to provide or not provide benefits based on the past service of officers and employees as described in s. 121.081(1).
- Require employees eligible to elect to join the FRS who choose to do so on or after July 1, 2011, to enter the defined contribution program. Such employees may not use the second election opportunity specified in s. 121.4501(4)(e).
- Clarify that the employer-paid employee contributions specified in s. 121.71(2) are subject to taxes imposed under the Federal Insurance Contributions Act.

Section 8 amends s. 121.0515, F.S., to make technical drafting changes and to make a conforming change to the implementation of employee contributions.

Section 9 amends s. 121.052, F.S., to:

- Specify that effective July 1, 2011, members of the Elected Officers' Class hired on or after that date will begin paying contributions. If a member ceases to fill the office for 3 consecutive months for any reason other than retirement and has not been employed in any capacity with any participating employer for 3 calendar months, the member is eligible for a refund of the employee contributions; however, by taking such refund the member waives all rights to the service credit under the FRS represented by the refunded contributions, except the right to purchase prior service credit in accordance with s. 121.081(2). A member may not receive a refund if a qualified domestic relations order is filed against the member's retirement account. Partial refunds are not permitted.
- Make technical drafting changes.

Section 10 amends s. 121.053, F.S., to:

- Specify that members and employers of members in the Elected Officers' Class who are enrolled in DROP must pay unfunded actuarial liability and health insurance subsidy contributions required by ss. 121.75(5) and 121.76.
- Make a conforming change to the implementation of employee contributions.

Section 11 amends s. 121.055, F.S., to:

- Specify that members of the Senior Management Service Class will begin paying contributions July 1, 2011. If a member ceases to fill the office for 3 consecutive months for any reason other than retirement, the member is eligible for a refund of the employee contributions; however, by taking such refund the member waives all rights to the service credit under the FRS represented by the refunded contributions, except the right to purchase prior service credit in accordance with s. 121.081(2). A member may not receive a refund if a qualified domestic relations order is filed against the member's retirement account. Partial refunds are not permitted.
- Specify that members of the Senior Management Service class who are participating in the Senior Management Service Class optional annuity program will begin paying contributions July 1, 2011. The member will pay the amount of the employee contribution required in s. 121.71(3). The member's employer will pay the difference between 12.49 percent of the member's gross monthly compensation and the amount of the member's contribution.

- Make technical drafting changes and conforming changes to the implementation of employee contributions.

Section 12 amends s. 121.071, F.S., to:

- Specify that employees and employers will pay retirement contributions as specified in s. 121.71 on July 1, 2011.
- Specify that three months after termination, a member is entitled to a refund of contributions he or she made before or after participating in the FRS. Partial refunds are not permitted. Employer contributions made on behalf of the member are not refundable. The refund may not include interest earnings on contributions for a member of the defined benefit program. A member may not receive a refund if a qualified domestic relations order is filed against his or her retirement account. By obtaining a refund of contributions, a member waives all rights under the FRS and the health insurance subsidy to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit.
- Specify that if a member or former member of the defined benefit program receives an invalid refund from the FRS Trust Fund, such person must repay the full amount of the refund, plus interest at 6.5 percent compounded annually on each June 30 from the date of refund until full repayment is made. The invalid refund must be repaid before the member retires or, if applicable, transfers to the defined contribution plan.
- Make technical drafting changes and conforming changes to the implementation of employee contributions.

Section 13 amends s. 121.081, F.S., to:

- Make a conforming change due to the closure of the defined benefit plan to specify that no past service can be purchased in the defined contribution plan.
- Make technical drafting changes and a conforming change to the implementation of employee contributions.
- Specify that for prior service performed on or after July 1, 2011, for which the member had credit under the Florida Retirement System and received a refund of contributions 3 months after termination of employment, the member shall contribute at the rate that was required during the period of service being claimed, plus 6.5 percent interest, compounded annually on each June 30 from date of refund until the full payment is made to the Florida Retirement System Trust Fund, and shall receive credit in the membership class in which the member participated during the period claimed.

Section 14 amends s. 121.091, F.S., to:

- Specify that effective July 1, 2011, upon termination from all participating employers for 3 calendar months for any reason other than retirement, a member may receive a refund of all contributions he or she made to the defined benefit program. Partial refunds are not permitted. The refund may not include any interest earnings on the contributions for a member of the defined benefit program. Employer contributions made on behalf of the member are not refundable. A member may not receive a refund of employee contributions if a qualified domestic relations order is filed against his or her retirement account. By obtaining a refund of contributions, a member waives all rights under the FRS and the health insurance subsidy to the service credit represented by the refunded contributions, except the right to purchase his or her prior service credit.

- Make technical drafting changes.

Section 15 amends s. 121.091, F.S., to:

- Make technical drafting changes.
- Raise the age by which a member must enroll in DROP.

Section 16 amends s. 121.121, F.S., to:

- Specify that effective July 1, 2011, any leave of absence purchased pursuant to the section shall be at the employee and employer contribution rates specified in s. 121.71 in effect during the leave for the class of membership from which the leave of absence was granted.
- Make technical drafting changes.

Section 17 amends s. 121.125, F.S., to make technical drafting changes and to make a conforming change to the implementation of employee contributions.

Section 18 amends s. 121.35, F.S., to:

- Make technical drafting changes and conforming changes to the implementation of employee contributions.
- Specify that members of the State University System Optional Retirement Program will begin paying contributions July 1, 2011. The member will pay the amount of the employee contribution required in s. 121.71(3). The member's employer will pay the difference between 10.43 percent of the member's gross monthly compensation and the amount of the member's contribution.

Section 19 amends s. 121.4501, F.S., to:

- Change the name of the "Public Employee Optional Retirement Program" to the "Florida Retirement System Investment Plan."
- Specify that enrollment in the defined contribution plan is compulsory for members enrolled on or after July 1, 2011.
- Make technical drafting changes; changes to conform to the program name change; changes to conform to the implementation of employee contributions; and changes to conform to the closure of the defined benefit program.
- Create definitions for "district school board employer," "investment plan," "local employer," and "state employer."
- Specify that if contribution adjustments are made as a result of employer errors or corrections, including plan corrections, following recomputation of the amount transferred, the participant is entitled to the additional contributions or is responsible for returning any excess contributions resulting from the correction if the return of such contributions by the plan is made within 1 year after the making of the erroneous contributions or such other period allowed by applicable Internal Revenue Service guidance. The present value of the member's accumulated benefit obligation may not be recalculated.
- Clarify that the state board shall establish transfer procedures by rule.
- Delete obsolete language regarding old choices.
- Specify that on or after July 1, 2011, a member of the defined benefit program who obtains a refund of employee contributions retains his or her prior plan choice upon return to employment in a regularly established position with a participating employer.

- Specify that a member of the defined contribution plan who takes a distribution of any contributions from his investment plan account is considered a retiree.
- Specify that a refund of any employee contributions or additional employee payments which exceed the employee contributions that would have accrued had an employee enrolled before July 1, 2011 not elected to change plans is not permitted.
- Specify that participant contributions shall be paid on a pretax basis, as provided in s. 401 of the Internal Revenue Code. Such contributions may not exceed federal limitations. A participant is responsible for monitoring his or her individual contributions to ensure that he or she does not exceed the maximum deferral amounts permitted under the Internal Revenue Code. A participant's total contribution equals the sum all amounts deducted from the participant's salary by his or her employer in accordance with s. 121.71(2) and credited to his or her individual account in the investment plan, plus any earnings on such amounts and any specified contributions.
- Specify that a participant is fully and immediately vested in all participant contributions paid to the investment plan, plus interest and earnings thereon and less investment fees and administrative charges.
- Create a new vesting schedule for employees enrolled in the FRS investment plan on or after July 1, 2011. Such employees vest at 40% upon completion of three years of service, 80% upon 4 years of service, and 100% upon 5 years of service.
- Specify that if the participant elects to receive any of his or her vested employer or participant contributions upon termination of employment as defined in s. 121.021, except for a mandatory distribution of a de minimis account authorized by the state board or a minimum required distribution provided by s. 401(a)(9) of the Internal Revenue Code, the participant shall forfeit all nonvested employer contributions and accompanying service credit paid on behalf of the participant to the investment plan.

Section 20 amends s. 121.4501, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 21 amends s. 121.4503, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 22 amends s. 121.571, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 23 amends s. 121. 591, F.S., to:

- Make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.
- Specify that benefits are not payable under the investment plan before termination of employment as provided in s. 121.021(39)(a) for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal

residence, payments necessary to prevent eviction or foreclosure on an employee's principal residence, or for any other reason.

- Codify and clarify current policy regarding retirement.
- Create an additional death benefit for members of the defined contribution plan who are killed in the line of duty. The surviving spouse of a participant killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the participant at the time of death for the rest of the surviving spouse's lifetime. If the surviving spouse of a participant killed in the line of duty dies, the monthly payments that would have been payable to the surviving spouse had such surviving spouse lived shall be paid for the use and benefit of such participant's children under 18 years of age and unmarried until the 18th birthday of the participant's youngest child. If a participant killed in the line of duty leaves no surviving spouse but is survived by children under 18 years of age, the benefits provided shall be paid for the use and benefit of the participant's child or children under 18 years of age and unmarried until the 18th birthday of the participant's youngest child.

Section 24 amends s. 121.5911, F.S., to make technical drafting changes and conforming changes to the name change of the FRS defined contribution program.

Section 25 amends s. 121.70, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 26 amends s. 121.71, F.S., to:

- Make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the program name change of the FRS defined contribution plan.
- Specify administrative and tax provisions regarding employee contributions.
- Create a statutory column for employee contribution rates.
- Provide that if a member is reported under an incorrect membership class and the amount of contributions reported and remitted are less than the amount required, the employer shall owe the difference, plus the delinquent fee, of 1 percent for each calendar month or part thereof that the contributions should have been paid.
- Set out the employee rates, the employer rates and the rates to fund any unfunded actuarial liabilities payable by the employers. The employers are permitted to deduct the employee contributions from the employee's monthly gross salary on a pretax basis. Employee contributions are set at an undefined percentage of gross salary beginning July 1, 2011. The employer contributions are set to meet the blended normal costs of the FRS (the defined benefit and defined contribution plans combined). The contribution rates for the unfunded actuarial liability are set at 0% for FY 2011-2012 and at the blended UAL rate beginning July 1, 2012. Under current law, the UAL rates will also be imposed upon the optional retirement programs offered for the state university system, the community colleges and the Senior Management Service.

Section 27 amends s. 121.72, F.S., to make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.

Section 28 amends s. 121.73, F.S., to:

- Make technical drafting changes and conforming changes to the program name change of the FRS defined contribution plan.
- Specify that effective July 1, 2011, allocations from the FRS Contribution Clearing Fund to provide disability coverage for participants in the investment plan and to offset the costs of administering such coverage shall be the actuarially indicated amount necessary to fund the statutorily authorized benefit for the plan year as determined by the department's actuary.

Section 29 amends s. 121.74, F.S., to make technical drafting changes and conforming changes to the name change of the FRS defined contribution program.

Section 30 amends s. 121.77, F.S., to make technical drafting changes and conforming changes to the name change of the FRS defined contribution program.

Section 31 amends s. 121.78, F.S., to:

- Make technical drafting changes; conforming changes to the implementation of employee contributions; and conforming changes to the name change of the FRS defined contribution program.
- Specify that retirement contributions paid for a prior period shall be charged a delinquent fee of 1 percent for each calendar month or part thereof that the contributions should have been paid. This includes prior period contributions due to incorrect wages, contributions from an earlier report or wages, and contributions that should have been reported but were not. The delinquent assessments may not be waived.
- Specify that if employee contributions reported by an employer on behalf of participants are reduced as a result of employer errors or corrections and the participant has terminated employment and taken a refund or distribution, the employer shall be billed and is responsible for recovering from the participant any excess contributions erroneously provided by the employer.
- Specify that if the employer submits excess employer or employee contributions, the employer shall receive a credit to be applied against future contributions owed. The employer is responsible for reimbursing the employee for any excess contributions submitted if any return of such an erroneous excess pretax contribution by the program is made within 1 year after making erroneous contributions or such other period as allowed under applicable Internal Revenue guidance.

Section 32 amends s. 1012.875, F.S., to:

- Make technical drafting changes and changes to conform to the implementation of employee contributions.
- Specify that effective July 1, 2011, each participant in the State Community College System Optional Retirement Program shall contribute an amount equal to the employee contribution required under s. 121.71(3). Effective July 1, 2011, each employer shall contribute on behalf of each program participant an amount equal to the difference between 10.43 percent of the participant's gross monthly compensation and the employee's required contribution based on the employee's gross monthly compensation.

Section 33 requires an actuarial study of alternative DROP funding.

Section 34 provides a statement of legitimate state interest as required by Article VII, s. 18(a) of the State Constitution and requires that all benefits be funded on a sound actuarial basis as required by Article X, s.14 of the State Constitution, and Part VII of ch. 112, F.S.

Section 35 requests the Division of Statutory Revision to rename the title of part II of chapter 121, Florida Statutes, as “Florida Retirement System Investment Plan.”

Section 36 appropriates and authorizes the following for the Division of Retirement within the Department of Management Services for the purposes of implementing the act:

- \$414,109 of recurring funds and \$31,016 of nonrecurring funds from the FRS Operating Trust Fund, and
- Eight full-time equivalent positions and salary rate or \$265,621.

Section 37 specifies that effective upon the act becoming a law, the State Board of Administration and the Department of Management Services shall, as soon as practicable, request a determination letter and private letter ruling from the United States Internal Revenue Service. If the Internal Revenue Service refuses to act upon a request for a private letter ruling, the legal opinion from a qualified tax attorney or firm may be substituted for the private letter ruling. If the board or the department receives notification from the United States Internal Revenue Service that this act or any portion of this act will cause the Florida Retirement System, or a portion thereof, to be disqualified for tax purposes under the Internal Revenue Code, then that portion does not apply. Upon such notice, the state board and the department shall notify the presiding officers of the Legislature.

Section 38 specifies that except as otherwise expressly provided in the act, the effective date is June 30, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (a) of s. 18, Art. VII of the Florida Constitution provides that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds ... unless the legislature has determined that such law fulfills an important state interest and unless: ... the expenditure is required to comply with a law that applies to all persons similarly situated”

This bill includes a legislative finding that the bill fulfills an important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Florida Constitution provides that any retirement or pension system supported in whole or part by public funds shall not increase benefits to the members or beneficiaries of the system after January 1, 1977, unless the provision of the funding increase is made on a sound actuarial basis.¹¹ The “Florida Protection of Public Employee Retirement Benefits Act” prohibits “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.”¹²

Provisions in the bill that create additional benefits may require an actuarial study.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:**Employee Contribution**

Each active employee of the FRS, the Senior Management Service Optional Annuity Plan, the State University System Optional Retirement Plan and the Community College Optional Retirement Plan will contribute a percentage of his/her gross salary on a pretax basis.

C. Government Sector Impact:**Closing Defined Benefit Plan**

Closing the defined benefit plan to new members will result in increased funding requirements for a period of approximately 25 years as liabilities in benefit payments continue but employer contributions for new members are not incoming.¹³ Closing the defined benefit plan to new members will also result in increased funding requirements for the disability program for the same reason.

Death Benefit for Defined Contribution Plan

Creating a monthly death benefit for survivors of a defined contribution plan participant killed in the line of duty will result in indeterminate increased funding requirements.

¹¹ Article X, Section 14, Florida Constitution.

¹² Section 112.61, F.S.

¹³ Actuarial study, “Study Reflecting the Impact of Closing the Florida Retirement System Pension Plan Including Projected Blended Rates for the next 30 Fiscal Years,” July 8, 2010, on file with the Committee on Governmental Oversight and Accountability.

Requiring Employee Contributions

Requiring employee contributions to the FRS will result in an indeterminate increase in cash flow.

Administrative Costs

The changes made in the bill may result in increased administrative costs incurred by the Division of Retirement within the Department of Management Services.

VI. Technical Deficiencies:

The Legislature may wish to clarify that the change in definitions of “compensation” and “average final compensation” in s. 121.021, F.S., are prospective for service earned.

The Legislature may wish to consider making terminology regarding the names of the two FRS plan options and the term used for participants consistent throughout the bill.

The date in line 2490 should be July 1, 2010.

The terms of the actuarial study required in Section 33 have already been completed.

VII. Related Issues:

Other economic factors and policy considerations could result in a change to the employer contribution rates listed in the bill.

The Division of Retirement within the Department of Management Services anticipates that it will require two additional full-time equivalent positions for the purpose of implementing this act.

VIII. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.



The Honorable Senator Mike Haridopolos
Capitol Office
420 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399
(850) 487-5056

Feb. 12, 2011

Dear Senator Haridopolos,

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A study by the legislature concluded that closing the retirement system would force governments at levels to pay increasing contributions for decades. This is because new employees would go to Wall Street accounts, but the retirees who are owed pensions would be paid for by Florida tax payers. As a representative of the people, I'm sure you understand the frustration this will cause, not only citizens of Florida, but the employees it affects as well.

As President of the Florida State Senate, I am putting my trust in you, Senator Haridopolos. Florida has one of the most well funded retirement systems in the country. Stand up for the very citizens that fund that retirement system. The governor's plans fill a short term deficit with devastating long term effects. Please reconsider what Governor Scott is proposing and oppose the drastic pay cuts to public employees.

Regards,

Michael J. MacHardy
1154 James Ave.
Deltona, FL 32738-6165
(386) 574-3750

American Federation of State, County and Municipal Employees, AFL-CIO
2738 North Forsyth Road • Winter Park, Florida 32792
(407) 673-0740 • FAX (407) 673-2918 • www.afscmeff.org

Dear Florida Senate President Mike Haridopolos,

As a strong supporter of you for quite some time I hope that this letter will find you personally reading it. Sir I am a Firefighter (rank and file and not in management) who is not in the state's retirement system, but that of our own that is doing well and strong considering the economic climate we are in. I am not one to write lengthy letters so I will hit topics and be brief. I will later include my phone number so that maybe you will take the time to call so I might be able to convey in more detail and answer any questions you may have. It is my hope you will see where and why I support some of the things that you and the Governor are doing and were I strongly feel a long term major mistake will be made.

I must say: I was a Union member up until about a year ago. I resigned stating in writing I could no longer support a national (agenda) with my money (dues) that I was vehemently against!

1. 30 years ago I took a pay cut to get a job with benefits and a pension and feel it should go back to that mantra.
2. Taking the "cost of Living" adjustment I agree with.
3. Taking the "Drop" I do not (I would hope you'd let me explain what this REALLY is and how it works for me as there is so many misconceptions).
4. Increasing retirement age in the "High Risk" category is ludicrous and invites may unforeseen problems. May I personally invite you & the Governor to live a shift in the life of what we have to do before you make that a final decision?
5. Decreasing the retirement factor from 3 to 2 you will see the best quality paramedics leave this state. This is a multi-faceted pitfall. (I know because I watched something similarly happen before.... In 30 years you see a lot).
6. Making such abrupt changes will put many who planned their retirement by the rules into hardships. A planned and phased approach is fair to the tax payers and the public employee who has usually given many years of faithful service.
7. Going after strictly retirements VS the most publically visible problem "High Salaries" by administrators is inviting headaches on a variety of different scales.

Sir coming from a family of politicians I can appreciate your position. My brother was a 2 term county commissioner. My father was a 4 term school board member during the time of bussing. I understand both sides I feel, better than most do. I would hope you would talk to someone that truly see's both sides prospective. I feel I have good common sense solutions to a variety of these problems and would like to share them by phone but hopefully in person with you.

Sincerely,
Thomas H Bruhn Jr (R)
(772) 882 5578
Bruhnt@comcast.net





The Public Is Our Special Interest

The Honorable Senator Mike Haridopolos
Capitol Office
420 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399
(850) 487-5056

Feb. 12, 2011

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Regards,

Stella Maria Moore
3300 S. NOVA RD. LOT 416
PORT ORANGE FL 32129

American Federation of State, County and Municipal Employees, AFL-CIO

2738 North Forsyth Road • Winter Park, Florida 32782
(407) 673-0740 • FAX (407) 673-2918 • www.afscme-fl.org





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Andrew E. Mikos
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Regards,

Cafe manager Volusia County Schools

American Federation of State, County and Municipal Employees, AFL-CIO

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Regards, *Michael Reid*
123 Carolina Lake Dr #305
Daytona Beach FL 32114

American Federation of State, County and Municipal Employees, AFL-CIO
2738 North Forsyth Road • Winter Park, Florida 32792
(407) 673-0740 • FAX (407) 673-2918 • www.afscmeff.org

February 14, 2011

RECEIVED

Senator Mike Haridopolos,
Florida Senate President
420 Senate Office Building
404 S Monroe ST
Tallahassee, FL 32399-6526

2011 FEB 17 P 2:05

OFFICE OF THE
SENATE PRESIDENT

Senator Haridopolos:

Those of us public servants, members of the Florida Retirement System who were hired under the idea that our state government would keep their word to pay us a pension at the end of our careers under the guidelines established at the time of employment, our families, and friends reject your attempts to needlessly overhaul our retirement system.

We REJECT your attempts to place a 5% contribution on our paychecks that equals a tax on public servants.

We REJECT your attempts to end the DROP for qualified FRS members.

We REJECT your attempts to eliminate the 3% COLA on retirees.

We REJECT your attempts to lower the 3% multiplier of special risk members to 2%.

We REJECT your attempts to expand the Average Final Compensation (AFC) from the highest 5 years to the entire career.

We REJECT your attempts to place all newly hired employees in a 401-k type account greatly reducing the FRS fund.

We REJECT any other malicious attempt that you may have against our very healthy and secure FRS, our state, county, school boards, and municipal agencies.

Signature: Marten Abdala

Print Name: Marten Abdala

Address: 12331 NW 7 Trail

Miami FL 33182

February 14, 2011

RECEIVED

Senator Mike Haridopolos,
Florida Senate President
420 Senate Office Building
404 S Monroe ST
Tallahassee, FL 32399-6526

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Signature: _____

Vivian Yanes

Print Name: _____

Vivian Yanes

Address: _____

19740 Bell-Aire Dr

Cutter Bay, FL 33157

February 14, 2011

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Florida Senate President
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Tallahassee, FL 32399-6526

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Signature: Patricia Licata

Print Name: PATRICIA LICATA

Address: 1417 Jay Ct.
Homestead, FL 33035

February 14, 2011

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Florida Senate President
420 Senate Office Building
404 S Monroe ST
Tallahassee, FL 32399-6526

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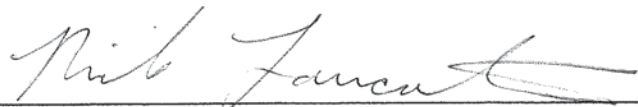
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Signature: 

Print Name: Nicole Lancaster

Address: 8036 SW 80 Ave.

Miami, FL 33143

February 14, 2011

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Florida Senate President
420 Senate Office Building
404 S Monroe ST
Tallahassee, FL 32399-6526

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Signature:  _____

Print Name: Michael Moore

Address: 9501 Holiday Rd, Cutler Bay, FL

33157

February 14, 2011

RECEIVED

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Florida Senate President
420 Senate Office Building
404 S Monroe ST
Tallahassee, FL 32399-6526

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Signature: J. Malcolm

Print Name: Lillian Malcolm

Address: 15492 Sw 102 Ave

MIA FLA 33157

Connie Wilson
7180 Oakwood Avenue
Cocoa, FL 32927

RECEIVED

2011 FEB 17 P 2: 05

February 14, 2011

The Honorable State Senator Mike Haridopolos
President of the Florida Senate
409 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

OFFICE OF THE
SENATE PRESIDENT

Dear Sir:

I would like to go on record as being opposed to the recent legislative proposals to diminish retirement benefits that are currently provided to our public servants.

I can only personally speak for my own family, which is headed by a Law Enforcement Officer. My husband began his career 23 years ago with a starting salary that qualified our young family for Federal Government benefits through the WIC program in spite of having a second income. Law Enforcement Officers who began their career in the late 1980s and early 1990s were attracted to the low paying positions in part due to the promise of a guaranteed pension and up to five years participation in the DROP. To now remove those promised benefits from the equation is patently unfair especially considering that it was not possible in those early years to plan and save otherwise for support in the years following a career providing protective services to the community.

Many officers, including my husband, have been seriously injured several times in the course of their careers protecting all of us from people living in our society who can't seem to live within the established rules of society. Additionally, statistics show that the life expectancy for career Law Enforcement Officers is approximately 20 years less than that of a person who made their career in the private sector. Please protect the benefits of these brave and self-sacrificing officers and their families by voting against legislation to reduce their retirement benefits.

I do understand that these legislative proposals would also negatively affect our firefighters and public school teachers, which is also unacceptable in my eyes. These public servants provide a valuable service to our community and also deserve our utmost respect and support. Please vote to protect all of our public servants.

Very Truly Yours,



Connie Wilson