

**SB 172** by **Bradley, Ring**; (Identical to H 0341) Local Government Pension Reform

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

**MEETING DATE:** Wednesday, January 21, 2015  
**TIME:** 3:30 —5:00 p.m.  
**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

**MEMBERS:** Senator Ring, Chair; Senator Hays, Vice Chair; Senators Bullard, Latvala, and Legg

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
<p><b>A proposed committee substitute</b> for the following bill (SB 172) is expected to be considered:</p>			
1	<p><b>SB 172</b> Bradley / Ring (Identical H 341)</p>	<p>Local Government Pension Reform; Requiring that firefighter and police officer pension plans meet the requirements of ch. 175 and 185, F.S., in order to receive certain insurance premium tax revenues; revising the method of creating and maintaining firefighters' and police officers' retirement trust funds; providing that the use of premium tax revenues may deviate from the requirements of ch. 175 and ch. 185, F.S., under certain circumstances, etc.</p> <p>GO 01/21/2015 Fav/CS CA FP</p>	<p>Fav/CS Yeas 5 Nays 0</p>

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Other Related Meeting Documents

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**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.)

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

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BILL: PCS/SB 172 (897128)

INTRODUCER: Governmental Oversight and Accountability

SUBJECT: Local Government Pension Reform

DATE: January 20, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	<b>Pre-meeting</b>
2.			CA	
3.			FP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

PCS/SB 172 substantially amends provisions specifying how insurance premium tax revenues must be used in police and firefighter pension plans. As a general rule, premium tax revenues equal to the amount received in 1997 by a particular plan must be used to fund the minimum benefits specified in chapters 175 or 185, F.S., and other retirement benefits. Any premium tax revenues received by a plan in excess of the 1997 threshold must be used to fund minimum benefits, additional retirement benefits and defined contribution plans under certain specified situations. The bill authorizes deviation from the specified uses of premium tax revenues, including accumulations of additional tax revenues which have not been applied to fund benefits in excess of the defined minimum benefits, by mutual consent of collective bargaining representatives or majority consent of plan members and consent of the municipality or special fire control district.

The bill increases the minimum annual benefit accrual rate from 2.0 percent to 2.75 percent, subject to certain exceptions.

The bill grandfathers changes to a plan that are based on that particular plan's reliance on an interpretation by the Department of Management Services (DMS) of the existing statute, as evidenced by correspondence with the DMS between August 14, 2012, and March 3, 2015.

The bill also clarifies that a maximum of 300 hours of overtime may be included for purposes of calculating municipal police pension plan benefits.

The overall costs or savings from the bill are indeterminate. The impact of the bill will vary depending upon the level of benefits currently offered by those plans, the amount of revenue received from the insurance premium tax by the plan sponsor, the service accrual rate under each plan, and the terms of any collective bargaining agreement between the plan sponsor and the affected police or firefighter collective bargaining unit. The bill has no fiscal impact on state revenues or expenditures.

## II. Present Situation:

### Background

The Marvin B. Clayton Firefighters' and Police Officers' Pension Trust Fund Acts<sup>1</sup> declare a legitimate state purpose of providing a uniform retirement system for the benefit of firefighters and municipal police officers. All municipal and special district firefighters and all municipal police officers retirement trust fund systems or plans established pursuant to ch. 175 or 185 must be managed, administered, operated, and funded to maximize the protection of firefighters' and police officers' pension trust funds.<sup>2</sup>

In 1939, the Legislature enacted ch. 175, F.S., to encourage cities to establish firefighter retirement plans by providing cities with the incentive of access to premium tax revenues. Fourteen years later, the Legislature enacted ch. 185, F.S., to provide a similar funding mechanism for municipal police officers retirement plans. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.

The Division of Retirement (division) within the DMS administers benefits to local police officers and firefighters under two types of plans, a chapter plan or a local plan. A chapter plan is a plan that adopts the provisions of either ch. 175 or 185 by reference. A local plan is a plan that is created by a special act of the Legislature, or by a local ordinance or resolution that meets the minimum statutory requirements. The division is responsible for overseeing and monitoring these plans, but day-to-day operational control rests with local boards of trustees subject to the regulatory authority of the division.<sup>3</sup> If the division were to deem that a firefighter or police pension plan created pursuant to ch. 175 or 185, F.S., is not in compliance with those chapters, the sponsoring municipality could be denied its distribution of insurance premium tax revenues.

### Funding

Four sources provide funding for these police officer and firefighter pension plans:

- The net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the "premium tax");
- Employee contributions;
- Other revenue sources (fines, gifts, and interest earnings); and
- Mandatory payments by the city of the normal cost of the plan.<sup>4</sup>

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<sup>1</sup> See ch. 175 and 185, F.S.

<sup>2</sup> See ss. 175.021(1) and 185.01(1), F.S.

<sup>3</sup> The division is responsible for administrative oversight of funds, including monitoring for actuarial soundness.

<sup>4</sup> Sections 175.091(1)(a) and 185.07(1), F.S.

An excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or special fire control district funds the Firefighters’ Pension Trust Fund of each participating municipality or special fire control district.<sup>5</sup> The insurers pay the tax to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the division.<sup>6</sup> These taxes paid by the insurers are fully creditable against the state insurance premium taxes imposed pursuant to ch. 624, F.S.<sup>7</sup> In other words, a similar amount of tax would be deposited into the state’s General Revenue Fund but for the imposition of the local premium tax. In 2013, premium tax distributions to municipalities and special fire districts from the Firefighters’ Pension Trust Fund amounted to \$74.7 million.<sup>8</sup>

An excise tax of 0.85 percent imposed on the gross premiums on casualty insurance policies covering property within the boundaries of a municipality funds the Police Officers’ Retirement Trust Fund.<sup>9</sup> Similar to the Firefighters’ Pension Trust Fund, insurers pay the excise tax to the DOR, which transfers the net proceeds to the appropriate fund at the division.<sup>10</sup> These taxes paid by the insurers are fully creditable against the state insurance premium taxes imposed pursuant to ch. 624, F.S.<sup>11</sup> In other words, a similar amount of tax would be deposited into the state’s General Revenue Fund but for the imposition of the local premium tax. In 2013, premium tax distributions to municipalities from the Police Officers’ Retirement Trust Fund amounted to \$64.9 million.<sup>12</sup>

Year	Premium Taxes Distributed to Chapter 175 Plans (Firefighter)	Premium Taxes Distributed to Chapter 185 Plans (Police)
1997	\$26,841,000	\$41,030,000
1998	\$29,469,000	\$41,218,000
1999	\$30,116,000	\$42,104,000
2000	\$30,902,000	\$43,600,000
2001	\$34,765,000	\$48,652,000
2002	\$40,044,000	\$54,556,000
2003	\$44,731,000	\$61,545,000
2004	\$48,515,000	\$62,224,000
2005	\$53,460,000	\$64,326,000
2006	\$60,500,000	\$65,619,000
2007	\$69,982,000	\$65,308,000
2008	\$67,152,000	\$63,961,000
2009	\$70,530,000	\$59,426,000
2010	\$70,122,000	\$57,469,000

<sup>5</sup> Section 175.101(1), F.S.

<sup>6</sup> See s. 175.121, F.S.

<sup>7</sup> See s. 624.509(7), F.S.

<sup>8</sup> Department of Management Services, *Firefighters' 2013 Premium Tax Distribution Calculation*, available online at: [https://www.rol.frs.state.fl.us/forms/Fire\\_2013.pdf](https://www.rol.frs.state.fl.us/forms/Fire_2013.pdf) (last visited on January 15, 2015).

<sup>9</sup> See s. 185.08, F.S.

<sup>10</sup> See s. 185.10, F.S.

<sup>11</sup> See s. 624.509(7), F.S.

<sup>12</sup> Department of Management Services, *Police Officers' 2013 Premium Tax Distribution Calculations*, available online at: [https://www.rol.frs.state.fl.us/forms/Police\\_2013.pdf](https://www.rol.frs.state.fl.us/forms/Police_2013.pdf) (last visited on January 15, 2015).

2011	\$71,744,000	\$59,615,000
2012	\$72,471,000	\$62,608,000
2013	\$74,705,000	\$64,869,000

The table above shows the aggregate amount of premium taxes distributed to the ch. 175 (firefighter) plans and ch. 185 (police) plans during the last 17 years. The amounts shown for 1997 are the aggregate amounts distributed to the plans in 1997 and may be used to fund minimum benefits. The difference between the 2013 aggregate amounts and the 1997 aggregate amounts (roughly \$47.9 million for firefighter plans and \$23.8 million for police officer plans) are the “additional premium tax revenues” that have been available only for “extra benefits.”

**Minimum Benefit Levels**

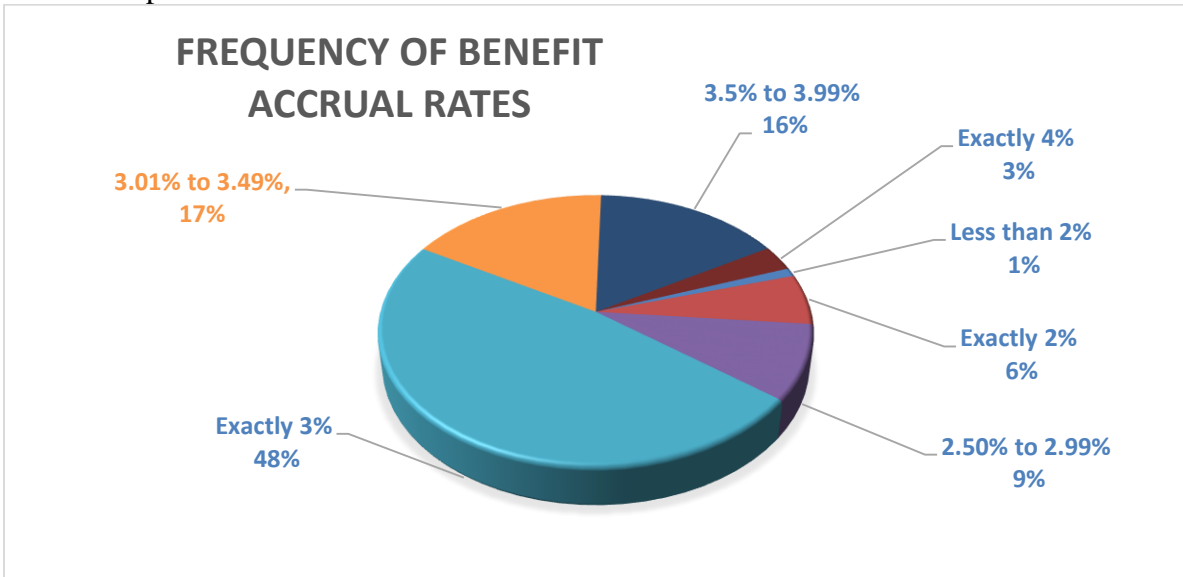
Chapters 175 and 185, F.S., specify certain “minimum benefits” that must be provided in firefighter and police plans,<sup>13</sup> summarized in relevant part below:

<b>Benefit</b>	<b>Description of minimum level</b>
Retirement Benefit	2 percent x average final compensation x years of creditable service.
Average Final Compensation (AFC)	Average annual compensation of highest 5 years of last 10 years of service.
Vesting	10 years.
Normal Retirement Age	Age 55 with 10 years of creditable service or Age 52 with 25 years of service.
Early Retirement	Age 50 with 10 years of service. Retirement benefit is reduced 3 percent for each year prior to reaching normal retirement age.
Earnings	Police = total cash remuneration. Fire = fixed monthly compensation.
Death Benefits	Prior to vesting - beneficiary receives employee contributions without interest earnings. Vested - beneficiary receives benefit based on early or normal retirement benefits, whichever are applicable. Post-retirement - beneficiary receives benefit based on retirement benefit option selected by member at time of retirement.
Disability Benefits	Eligibility - no service requirement for in line of duty disability; 10 years of service for non-service-related disability. Benefits - no less than 25 percent of average monthly earnings if non service-related; no less than 42 percent of average monthly earnings if service related.

The chapter law plans adopt the statutory minimum benefits for their plans. The local law plans have broad discretion to establish the benefit levels, including benefit accrual rates. The chart below shows the frequency of the benefit accrual rates used by the various ch. 175 and ch. 185

<sup>13</sup> Sections 175.032, 175.162, 175.191, 185.02, 185.16, and 185.18, F.S.

plans.<sup>14</sup> A 3 percent annual accrual rate is by far the most frequently used rate – similar to the benefit accrual rate used by the Florida Retirement System for the Special Risk Class membership.



**Historical Interpretation of the Law**

In 1999, the Legislature passed legislation that made virtually all provisions of ch. 175 and 185, F.S., expressly applicable to all participating police officer and firefighter pension plans, except the local law plans established by the cities of Jacksonville, Coral Gables, Miami, and Miami Beach.<sup>15</sup> That legislation required all pension plans operating pursuant to these chapters to meet the specific “minimum benefit” standards and to use the premium tax revenues for certain purposes. A plan was authorized to use on an annual basis the amount of premium tax revenues received by the plan in 1997 to meet the costs of benefits in effect on March 12, 1999. Each plan was required to use the premium tax revenues received above the 1997 threshold to meet the costs of any statutory minimums that were not funded as of March 12, 1999, or to fund “extra benefits”. The term “extra benefits” means benefits in addition to or greater than those provided to general employees of the municipality, and in addition to those in existence for firefighters and police officers on March 12, 1999.<sup>16</sup>

Until August 2012, the division consistently interpreted the law to require that premium tax revenues be used first to meet any minimum benefit requirements and those other pension benefits that were in place on March 12, 1999. Once the plan was in compliance with the minimum benefits requirements, any additional premium tax revenues had to be used to provide extra benefits. Plans were not permitted to reduce pension benefits below the minimum benefits level or the level of pension benefits in effect on March 12, 1999, if greater.

<sup>14</sup> Department of Management Services, *Benefit Accrual Rate Chart*, available online at: [https://www.rol.frs.state.fl.us/forms/Benefit\\_Accrual.pdf](https://www.rol.frs.state.fl.us/forms/Benefit_Accrual.pdf) (last visited on January 16, 2015).

<sup>15</sup> Sections 175.351(3) and 185.35(3), F.S.

<sup>16</sup> See ss. 175.351(2)(b) and 185.35(2)(b), F.S.

### **Re-interpretation of the Law**

In response to a letter from the City of Naples in August 2012, the division advised that its historical interpretation of s. 185.35(2), F.S., “appears inaccurate.” The division was asked, in essence, whether a city that negotiated and mutually agreed with its police officers to reduce benefits below levels in place on March 12, 1999, would jeopardize its premium tax revenues. In its response, the division advised that for local law plans in effect on October 1, 1998, the law compels the plan to provide chapter minimum benefits only to the extent that those benefits can be funded with “additional premium tax revenues.” Thus, for local law plans in effect on October 1, 1998, the division’s re-interpretation of the law requires chapter minimum benefits to be provided only to the extent that those benefits can be funded with premium tax revenues received in excess of the amount received for calendar year 1997.

Under the new interpretation, it appears the division will allow the following actions to occur without impacting the distribution of premium tax revenues:

- A plan sponsor may redirect, at its discretion, its 1997 premium tax revenues from funding minimum pension benefits to funding other non-pension retirement benefits;
- A plan sponsor may reduce plan pension benefits to the level that can be funded solely by those additional premium tax revenues received in excess of the 1997 level;
- A plan sponsor may reduce its mandatory contribution that it was previously making to the plan to fund minimum benefits and to redirect those monies to other municipal purposes; and
- A plan sponsor may use its premium tax revenues in excess of the 1997 threshold (previously restricted to fund “extra benefits” only) to fund any minimum benefits.

The division has subsequently provided this new interpretation to other inquiring cities. DMS has not adopted its original interpretation of the law nor its recent interpretation of the exact same statutory language as a rule.

### **Definition of Salary in Municipal Police Pension Plans**

In 2011, the Legislature imposed a 300 hour cap on the amount of overtime hours to be included in the calculation of retirement benefits in ss. 112.66, 175.032, and 185.02, F.S.<sup>17</sup> The provisions for general public retirement systems (ch. 112, F.S.) and firefighter pensions (ch. 175, F.S.) did not have existing stipulations allowing any overtime hours to be included in the calculation of retirement benefits. Section 185.02(4), F.S., had the following definition before the 2011 changes:

“Compensation” or “salary” means the total cash remuneration including “overtime” paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or a special detail work performed on behalf of a second party employer. However, a local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes, but in no event shall such overtime limit be less than 300 hours per officer per calendar year.

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<sup>17</sup> Chapter 2011-216, L.O.F.



As amended by ch. 2011-216, L.O.F., the section reads as follows:

“Compensation” or “salary” means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the total cash remuneration including “overtime” paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or special detail work performed on behalf of a second party employer. A local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year. For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011, the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be included.

The pre-2011 provision set the limit at no less than 300 hours, effectively acting as a floor or minimum of 300 hours. The current language has been interpreted to mean that after July 1, 2011, the 300 hour floor has been replaced by a 300 hour cap. After the effective date of ch. 2011-216, L.O.F., the division appeared to take the position that the law did not *replace* the floor with a cap, but supplemented the 300 hour floor with a 300 hour cap. In other words, the employer would have had to include at least 300 hours of overtime in the calculation, but could not include more than 300 hours. Subsequently, however, the division has taken the position that the amount of overtime hours that may be included when calculating retirement benefits may be anywhere from 0 to 300 hours.<sup>18</sup>

### **III. Effect of Proposed Changes:**

#### **Definitions**

The bill defines several new terms for purposes of ch. 175 and 185, F.S. The most relevant terms are “additional premium tax revenues,” “base premium tax revenues,” and “minimum benefits.” Additional premium tax revenues mean insurance premium tax revenues received by a municipality (or special fire control district) which exceed base premium tax revenues. Base premium tax revenues are those insurance premium taxes received by a municipality (or special fire control district) for calendar year 1997. Minimum benefits are the benefits set forth in specified sections of chapter 175 (for firefighters and, if included in the plan, police officers) and chapter 185 (for police officers and, if included in the plan, firefighters).

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<sup>18</sup> Letter from the DMS Division of Retirement to City of Largo, dated April 4, 2012, on file with the Committee on Governmental Oversight and Accountability.

The bill substantially changes how insurance premium tax revenues must be used in the funding of police and firefighter pension plans in ch. 175 and 185, F.S.

### **Change of the Minimum Benefit Accrual Rate**

The bill increases the minimum benefit accrual rate from 2.0 percent to 2.75 percent. Plans are permitted to deviate from this minimum benefit accrual rate if the plan is otherwise in compliance with the minimum benefits and minimum standards but provides a benefit accrual rate of less than 2.75 percent. In that instance, the plan must maintain, at a minimum, the benefit accrual rate that was in effect on July 1, 2015. If the plan subsequently increases the benefit accrual rate to 2.75 percent or greater, the plan may not later reduce the rate below 2.75 percent.

### **Use of Insurance Premium Tax Revenues**

The bill amends parallel provisions in ch. 175 and 185, F.S., and specifies that in order to receive insurance premium tax revenues, those revenues must be used as follows:

- Base premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits.
- Of the additional premium tax revenues received in excess of the amount received in calendar year 2012, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits, as determined by the municipality (or special fire control district) and 50 percent must be placed in a defined contribution plan to fund special benefits.
- Additional premium tax revenues not required to be distributed to fund minimum benefits, retirement benefits in excess of minimum benefits or special benefits must be used to fund benefits **not** included in the minimum benefits. If the additional premium tax revenues required to be distributed to fund minimum benefits, additional retirement benefits and special benefits exceed the full cost of benefits provided through a retirement plan:
  - 50 percent of any excess must be used to fund minimum benefits or other retirement benefits; and
  - 50 percent must be placed in a defined contribution plan.
- Any accumulations of additional premium tax revenues which have not been applied to fund benefits in excess of minimum benefits:
  - 50 percent of the accumulation must be used to fund special benefits; and
  - 50 percent must be used to fund any unfunded actuarial liabilities of the plan, provided that any amount of accumulations in excess of amount required to fund unfunded actuarial liabilities must be used to fund special benefits.
- For plans created after March 1, 2015, 50 percent of the insurance premium tax revenues must be used to fund defined benefit plan component benefits and the remainder must be used to fund defined contribution plan component benefits.
- If a plan offers benefits in excess of the minimum benefits, excluding supplemental plan benefits in effect as of September 30, 2014, those plan benefits may be reduced if the plan continues to meet the minimum benefits and minimum standards in ch. 175 and 185, F.S. The amount of insurance premium tax revenues previously used to fund benefits in excess of minimum benefits, excluding supplemental benefits in effect as of September 30, 2014, before the reduction must be used to fund minimum benefits or other retirement benefits (50 percent) and a defined contribution plan (50 percent). However, benefits may not be reduced

if the plan does not have a minimum accrual rate of 2.75 percent, or greater, of the average final compensation of a full-time firefighter or police officer.

Notwithstanding those provisions of the bill, the use of insurance premium tax revenues, including additional tax revenues which have not been applied to fund benefits in excess of the minimum benefits, may deviate from the requirements of the bill by mutual consent of the members' collective bargaining representative or, if there is none, by majority consent of the members' of the fund and consent of the municipality (or special fire control district), provided the plan continues to meet the minimum benefits and the minimum standards of ch. 175 and 185, F.S. However, a plan that does not meet a minimum benefit as of October 1, 2012, may continue to provide the benefit not meeting the minimum benefit at the same level, but not less than that level as was provided on October 1, 2012, and all other benefits must continue to meet the minimum benefits. A mutually agreed deviation must continue until modified or revoked by subsequent mutual consent of the members' collective bargaining representative (or a majority of the members of the fund) and the municipality (or special fire control district). A special act plan or a plan within a supplemental plan municipality are considered to have mutually agreed to such deviation as of July 1, 2015, regarding the existing agreement on the use of premium tax revenues.

The bill also requires plan sponsors to create defined contribution plan components within their plans by October 1, 2015, for noncollectively bargained services, upon entering into a collectively bargaining agreement on or after July 1, 2015, or upon the creation date of a new participating plan. Depending upon the use of insurance premium tax revenues as otherwise provided in the bill, a defined contribution component may or may not receive funding.

The bill explicitly allows plans to use the insurance premium tax revenues and offer benefits below the statutorily required levels in certain instances. The plan must have relied upon the interpretation of the statute by the DMS to reduce the level of benefits or use the premium tax revenues, and such reliance must be evidenced by certain documentation. The plan may continue to offer these reduced benefits and/or use the premium tax revenues in this manner until the earlier of October 1, 2018, or another collective bargaining agreement is negotiated addressing the benefits or use of revenues.

### **300 Hour Cap of Overtime for Benefit Purposes**

The bill amends the definition of "compensation" or "salary" in s. 185.02(4), F.S., relating to police officer retirement plans, to:

- Delete the sentence that states: "A local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year." Deleting this sentence should clarify that the definition has a maximum cap of 300 hours, with no required minimum, consistent with a recent interpretation by the division, as it applies to the inclusion of overtime hours in the calculation of police retirement benefits.
- Provide that overtime may be limited prior to July 1, 2011, in a local law plan by the plan provisions. Local law plans are retirement plans, which include a defined benefit plan component and a defined contribution plan component, for police officers (and firefighters, if included) established by municipal ordinance or special act of the Legislature.

**Conforming Changes**

**Sections 3 and 9** amend ss. 175.071 and 185.06, F.S., to make conforming changes.

**Important State Interest**

**Section 13** provides that the Legislature determines that the bill fulfills an important state interest as related to public pension plans.

The bill takes effect July 1, 2015.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

To the extent this bill requires a local government to expend funds to comply with its terms, the provisions of art. VII, s. 18(a) of the Florida 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 (included in section 13 of the bill), and one of the following relevant exceptions must be met:

- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

**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:**

The overall costs or savings to local government from this bill are indeterminate, because approximately 350 plans are affected by the bill. The impact of the bill will vary depending upon the level of benefits currently offered by those plans, the amount of

revenue received from the insurance premium tax by the plan sponsor, the service accrual rate under each plan, and the terms of any collective bargaining agreement reached between the plan sponsor and the affected police or firefighter collective bargaining unit. The bill has no impact on state revenues and expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 175.021, 175.032, 175.071, 175.091, 175.162, 175.351, 185.01, 185.02, 185.06, 185.07, 185.16, and 185.35.

The bill creates an undesignated section of Florida law.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

**PCS (897128) by Governmental Oversight and Accountability**

PCS/SB 172 makes several technical changes to add clarity to the language and correct several scriveners' errors.

**B. Amendments:**

None.



585-00670-15

Proposed Committee Substitute by the Committee on Governmental  
Oversight and Accountability

A bill to be entitled

An act relating to local government pension reform;  
amending s. 175.021, F.S.; requiring that firefighter  
pension plans meet the requirements of ch. 175, F.S.,  
in order to receive certain insurance premium tax  
revenues; amending s. 175.032, F.S.; revising  
definitions to conform to changes made by the act and  
providing new definitions; amending s. 175.071, F.S.;  
conforming a cross-reference; amending s. 175.091,  
F.S.; revising the method of creating and maintaining  
a firefighters' pension trust fund; amending s.  
175.162, F.S.; deleting a provision basing the  
availability of additional benefits in a firefighter  
pension plan upon state funding; revising the  
calculation of monthly retirement income for a full-  
time firefighter; specifying the minimum benefits that  
must be maintained by certain firefighter pension  
plans after a specified date; amending s. 175.351,  
F.S.; exempting certain firefighter pension plans of a  
municipality or special fire control district from  
meeting certain minimum benefits in order to  
participate in the distribution of a premium tax;  
redesignating the term "pension plan" as "retirement  
plan"; revising criteria governing the use of revenues  
of the premium tax; authorizing a pension plan to  
reduce certain excess benefits if the plan continues  
to meet certain minimum benefits and standards;



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providing that the use of premium tax revenues may  
deviate from the requirements of ch. 175, F.S., under  
certain circumstances; revising the conditions for  
proposing the adoption of a pension plan or an  
amendment to a pension plan; requiring plan sponsors  
to have a defined contribution plan component in place  
by a certain date; authorizing a municipality or  
special fire control district to implement certain  
changes to a local law plan which are contrary to ch.  
175, F.S., for a limited time, under certain  
circumstances; amending s. 185.01, F.S.; requiring  
that police officer pension plans meet the  
requirements of ch. 185, F.S., in order to receive  
certain insurance premium tax revenues; amending s.  
185.02, F.S.; revising definitions to conform to  
changes made by the act and providing new definitions;  
revising applicability of the limitation on the amount  
of overtime payments which may be used for pension  
benefit calculations; amending s. 185.06, F.S.;  
conforming a cross-reference; amending s. 185.07,  
F.S.; revising the method of creating and maintaining  
a police officers' retirement trust fund; amending s.  
185.16, F.S.; deleting a provision basing the  
availability of additional benefits in a police  
officer pension plan upon state funding; revising the  
calculation of monthly retirement income for a police  
officer; specifying the minimum benefits that must be  
maintained by certain police officer pension plans  
after a specified date; amending s. 185.35, F.S.;



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57 exempting certain municipal police officer pension  
58 plans from meeting certain minimum benefits in order  
59 to participate in the distribution of a premium tax;  
60 redesignating the term "pension plan" as "retirement  
61 plan"; revising criteria governing the use of revenues  
62 from the premium tax; authorizing a plan to reduce  
63 certain excess benefits if the plan continues to meet  
64 certain minimum benefits and minimum standards;  
65 providing that the use of premium tax revenues may  
66 deviate from the requirements of ch. 185, F.S., under  
67 specified circumstances; revising the conditions for  
68 proposing the adoption of a pension plan or amendment  
69 to a pension plan; conforming a cross-reference;  
70 requiring plan sponsors to have a defined contribution  
71 plan component in place by a certain date; authorizing  
72 a municipality to implement certain changes to a local  
73 law plan which are contrary to ch. 185, F.S., for a  
74 limited time; providing a declaration of important  
75 state interest; providing an effective date.

76  
77 Be It Enacted by the Legislature of the State of Florida:

78  
79 Section 1. Subsection (2) of section 175.021, Florida  
80 Statutes, is amended to read:

81 175.021 Legislative declaration.—

82 (2) This chapter hereby establishes, for all municipal and  
83 special district pension plans existing ~~now or hereafter~~ under  
84 this chapter, including chapter plans and local law plans,  
85 minimum benefits and minimum standards for the operation and



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86 funding of such plans, hereinafter referred to as firefighters'  
87 pension trust funds, which must be met as conditions precedent  
88 to the plan or plan sponsor receiving a distribution of  
89 insurance premium tax revenues under s. 175.121. The Minimum  
90 benefits and minimum standards for each plan set forth in this  
91 ~~chapter~~ may not be diminished by local charter, ordinance, or  
92 resolution or by special act of the Legislature and may not, nor  
93 ~~may the minimum benefits or minimum standards~~ be reduced or  
94 offset by any other local, state, or federal law that includes  
95 ~~may include~~ firefighters in its operation, except as provided  
96 under s. 112.65.

97 Section 2. Section 175.032, Florida Statutes, is amended to  
98 read:

99 175.032 Definitions.—For any municipality, special fire  
100 control district, chapter plan, local law municipality, local  
101 law special fire control district, or local law plan under this  
102 chapter, the term following words and phrases have the following  
103 meanings:

104 (1) "Additional premium tax revenues" means revenues  
105 received by a municipality or special fire control district  
106 pursuant to s. 175.121 which exceed base premium tax revenues.

107 (2) (1) (a) "Average final compensation" for:

108 (a) A full-time firefighter means one-twelfth of the  
109 average annual compensation of the 5 best years of the last 10  
110 years of creditable service before ~~prior to~~ retirement,  
111 termination, or death, or the career average as a full-time  
112 firefighter since July 1, 1953, whichever is greater. A year is  
113 ~~shall be~~ 12 consecutive months or such other consecutive period  
114 of time as is used and consistently applied.



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115 (b) ~~"Average final compensation"~~ for A volunteer  
116 firefighter means the average salary of the 5 best years of the  
117 last 10 best contributing years ~~before~~ ~~prior to~~ change in status  
118 to a permanent full-time firefighter or retirement as a  
119 volunteer firefighter or the career average of a volunteer  
120 firefighter, since July 1, 1953, whichever is greater.

121 (3) "Base premium tax revenues" means:

122 (a) For a local law plan in effect on October 1, 1998, the  
123 revenues received by a municipality or special fire control  
124 district pursuant to s. 175.121 for the 1997 calendar year.

125 (b) For a local law plan created between October 1, 1998,  
126 and March 1, 2015, inclusive, the revenues received by a  
127 municipality or special fire control district pursuant to s.  
128 175.121 based upon the tax collections during the second  
129 calendar year of participation.

130 (4) ~~(2)~~ "Chapter plan" means a separate defined benefit  
131 pension plan for firefighters which incorporates by reference  
132 the provisions of this chapter and has been adopted by the  
133 governing body of a municipality or special district. Except as  
134 ~~may be~~ specifically authorized in this chapter, the provisions  
135 of a chapter plan may not differ from the plan provisions set  
136 forth in ss. 175.021-175.341 and ss. 175.361-175.401. Actuarial  
137 valuations of chapter plans shall be conducted by the division  
138 as provided by s. 175.261(1).

139 (5) ~~(3)~~ "Compensation" or "salary" means, for  
140 noncollectively bargained service earned before July 1, 2011, or  
141 for service earned under collective bargaining agreements in  
142 place before July 1, 2011, the fixed monthly remuneration paid a  
143 firefighter. If remuneration is based on actual services



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144 rendered, as in the case of a volunteer firefighter, the term  
145 means the total cash remuneration received yearly for such  
146 services, prorated on a monthly basis. For noncollectively  
147 bargained service earned on or after July 1, 2011, or for  
148 service earned under collective bargaining agreements entered  
149 into on or after July 1, 2011, the term has the same meaning  
150 except that when calculating retirement benefits, up to 300  
151 hours per year in overtime compensation may be included as  
152 specified in the plan or collective bargaining agreement, but  
153 payments for accrued unused sick or annual leave may not be  
154 included.

155 (a) Any retirement trust fund or plan that meets the  
156 requirements of this chapter does not, solely by virtue of this  
157 subsection, reduce or diminish the monthly retirement income  
158 otherwise payable to each firefighter covered by the retirement  
159 trust fund or plan.

160 (b) The member's compensation or salary contributed as  
161 employee-elective salary reductions or deferrals to any salary  
162 reduction, deferred compensation, or tax-sheltered annuity  
163 program authorized under the Internal Revenue Code shall be  
164 deemed to be the compensation or salary the member would receive  
165 if he or she were not participating in such program and shall be  
166 treated as compensation for retirement purposes under this  
167 chapter.

168 (c) For any person who first becomes a member in any plan  
169 year beginning on or after January 1, 1996, compensation for  
170 that plan year may not include any amounts in excess of the  
171 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
172 the Omnibus Budget Reconciliation Act of 1993, which limitation





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173 of \$150,000 shall be adjusted as required by federal law for  
174 qualified government plans and ~~shall be~~ further adjusted for  
175 changes in the cost of living in the manner provided by Internal  
176 Revenue Code s. 401(a)(17)(B). For any person who first became a  
177 member before the first plan year beginning on or after January  
178 1, 1996, the limitation on compensation may not be less than the  
179 maximum compensation amount that was allowed to be taken into  
180 account under the plan in effect on July 1, 1993, which  
181 limitation shall be adjusted for changes in the cost of living  
182 since 1989 in the manner provided by Internal Revenue Code s.  
183 401(a)(17)(1991).

184 ~~(6)(4)~~ "Creditable service" or "credited service" means the  
185 aggregate number of years of service, and fractional parts of  
186 years of service, of any firefighter, omitting intervening years  
187 and fractional parts of years when such firefighter may not have  
188 been employed by the municipality or special fire control  
189 district, subject to the following conditions:

190 (a) ~~A~~ No firefighter may not ~~will~~ receive credit for years  
191 or fractional parts of years of service if he or she has  
192 withdrawn his or her contributions to the fund for those years  
193 or fractional parts of years of service, unless the firefighter  
194 repays into the fund the amount he or she has withdrawn, plus  
195 interest determined by the board. The member has ~~shall have~~ at  
196 least 90 days after his or her reemployment to make repayment.

197 (b) A firefighter may voluntarily leave his or her  
198 contributions in the fund for ~~a period of~~ 5 years after leaving  
199 the employ of the fire department, pending the possibility of  
200 being rehired by the same department, without losing credit for  
201 the time he or she has participated actively as a firefighter.



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202 If the firefighter is not reemployed as a firefighter, with the  
203 same department, within 5 years, his or her contributions shall  
204 be returned without interest.

205 (c) Credited service under this chapter shall be provided  
206 only for service as a firefighter, ~~as defined in subsection (8),~~  
207 or for military service and does not include credit for any  
208 other type of service. A municipality ~~may~~, by local ordinance,  
209 or a special fire control district ~~may~~, by resolution, may  
210 provide for the purchase of credit for military service prior to  
211 employment as well as for prior service as a firefighter for  
212 some other employer as long as a firefighter is not entitled to  
213 receive a benefit for such prior service ~~as a firefighter~~. For  
214 purposes of determining credit for prior service as a  
215 firefighter, in addition to service as a firefighter in this  
216 state, credit may be given for federal, other state, or county  
217 service if the prior service is recognized by the Division of  
218 State Fire Marshal as provided ~~in~~ under chapter 633, or the  
219 firefighter provides proof to the board of trustees that his or  
220 her service is equivalent to the service required to meet the  
221 definition of a firefighter ~~under subsection (8)~~.

222 (d) In determining the creditable service of any  
223 firefighter, credit for up to 5 years of the time spent in the  
224 military service of the Armed Forces of the United States shall  
225 be added to the years of actual service if:

226 1. The firefighter is in the active employ of an employer  
227 immediately before ~~prior to~~ such service and leaves a position,  
228 other than a temporary position, for the purpose of voluntary or  
229 involuntary service in the Armed Forces of the United States.

230 2. The firefighter is entitled to reemployment under ~~the~~



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231 ~~provisions of~~ the Uniformed Services Employment and Reemployment  
232 Rights Act.

233 3. The firefighter returns to his or her employment as a  
234 firefighter of the municipality or special fire control district  
235 within 1 year after ~~from~~ the date of release from such active  
236 service.

237 ~~(7)(5)~~ "Deferred Retirement Option Plan" or "DROP" means a  
238 local law plan retirement option in which a firefighter may  
239 elect to participate. A firefighter may retire for all purposes  
240 of the plan and defer receipt of retirement benefits into a DROP  
241 account while continuing employment with his or her employer.  
242 However, a firefighter who enters the DROP and who is otherwise  
243 eligible to participate may shall not ~~thereby~~ be precluded from  
244 participation or continued participation participating, or  
245 continuing to participate, in a supplemental plan in existence  
246 on, or created after, March 12, 1999 ~~the effective date of this~~  
247 ~~act.~~

248 (8) "Defined contribution plan" means the component of a  
249 local law plan, as provided in s. 175.351(1), to which deposits,  
250 if any, are made to provide benefits for firefighters, or for  
251 firefighters and police officers if both are included. Such  
252 component is an element of a local law plan and exists in  
253 conjunction with the defined benefit plan component that meets  
254 minimum benefits and minimum standards. The retirement benefits,  
255 if any, of the defined contribution plan component shall be  
256 provided through individual member accounts in accordance with  
257 the applicable provisions of the Internal Revenue Code and  
258 related regulations and are limited to the contributions, if  
259 any, made into each member's account and the actual accumulated



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260 earnings, net of expenses, earned on the member's account.

261 ~~(9)(6)~~ "Division" means the Division of Retirement of the  
262 Department of Management Services.

263 ~~(10)(7)~~ "Enrolled actuary" means an actuary who is enrolled  
264 under Subtitle C of Title III of the Employee Retirement Income  
265 Security Act of 1974 and who is a member of the Society of  
266 Actuaries or the American Academy of Actuaries.

267 ~~(11)(a)(8)(a)~~ "Firefighter" means a person employed solely  
268 by a constituted fire department of any municipality or special  
269 fire control district who is certified as a firefighter as a  
270 condition of employment in accordance with s. 633.408 and whose  
271 duty it is to extinguish fires, to protect life, or to protect  
272 property. The term includes all certified, supervisory, and  
273 command personnel whose duties include, in whole or in part, the  
274 supervision, training, guidance, and management responsibilities  
275 of full-time firefighters, part-time firefighters, or auxiliary  
276 firefighters but does not include part-time firefighters or  
277 auxiliary firefighters. However, for purposes of this chapter  
278 only, the term also includes public safety officers who are  
279 responsible for performing both police and fire services, who  
280 are certified as police officers or firefighters, and who are  
281 certified by their employers to the Chief Financial Officer as  
282 participating in this chapter before October 1, 1979. Effective  
283 October 1, 1979, public safety officers who have not been  
284 certified as participating in this chapter are considered police  
285 officers for retirement purposes and are eligible to participate  
286 in chapter 185. Any plan may provide that the fire chief has an  
287 option to participate, ~~or not,~~ in that plan.

288 (b) "Volunteer firefighter" means any person whose name is



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289 carried on the active membership roll of a constituted volunteer  
290 fire department or a combination of a paid and volunteer fire  
291 department of any municipality or special fire control district  
292 and whose duty it is to extinguish fires, to protect life, and  
293 to protect property. Compensation for services rendered by a  
294 volunteer firefighter ~~does shall~~ not disqualify him or her as a  
295 volunteer. A person ~~may shall~~ not be disqualified as a volunteer  
296 firefighter solely because he or she has other gainful  
297 employment. Any person who volunteers assistance at a fire but  
298 is not an active member of a department described herein is not  
299 a volunteer firefighter within the meaning of this paragraph.

300 (12)(9) "Firefighters' Pension Trust Fund" means a trust  
301 fund, by whatever name known, as provided under s. 175.041, for  
302 the purpose of assisting municipalities and special fire control  
303 districts in establishing and maintaining a retirement plan for  
304 firefighters.

305 (13)(10) "Local law municipality" means ~~is~~ any municipality  
306 in which ~~there exists~~ a local law plan exists.

307 (14)(11) "Local law plan" means a retirement defined  
308 benefit pension plan which includes both a defined benefit plan  
309 component and a defined contribution plan component for  
310 firefighters, or for firefighters and ~~or~~ police officers if both  
311 are where included, as described in s. 175.351, established by  
312 municipal ordinance, special district resolution, or special act  
313 of the Legislature, which enactment sets forth all plan  
314 provisions. Local law plan provisions may vary from the  
315 provisions of this chapter if, provided that required minimum  
316 benefits and minimum standards are met. However, any such  
317 variance must shall provide a greater benefit for firefighters.



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318 Actuarial valuations of local law plans shall be conducted by an  
319 enrolled actuary as provided in s. 175.261(2).

320 (15)(12) "Local law special fire control district" means ~~is~~  
321 any special fire control district in which ~~there exists~~ a local  
322 law plan exists.

323 (16) "Minimum benefits" means the benefits specified in ss.  
324 175.021-175.341 and ss. 175.361-175.401.

325 (17) "Minimum standards" means the standards specified in  
326 ss. 175.021-175.401.

327 (18)(13) "Property insurance" means property insurance as  
328 defined in s. 624.604 and covers real and personal property  
329 within the corporate limits of a any municipality, or within the  
330 boundaries of a any special fire control district, within the  
331 state. The term "multiple peril" means a combination or package  
332 policy that includes both property and casualty coverage for a  
333 single premium.

334 (19)(14) "Retiree" or "retired firefighter" means a  
335 firefighter who has entered retirement status. For the purposes  
336 of a plan that includes a Deferred Retirement Option Plan  
337 (DROP), a firefighter who enters the DROP is shall be considered  
338 a retiree for all purposes of the plan. However, a firefighter  
339 who enters the DROP and who is otherwise eligible to participate  
340 may shall not thereby be precluded from participation or  
341 continued participation participating, or continuing to  
342 participate, in a supplemental plan in existence on, or created  
343 after, March 12, 1999 the effective date of this act.

344 (20)(15) "Retirement" means a firefighter's separation from  
345 municipal city or fire district employment as a firefighter with  
346 immediate eligibility for ~~receipt~~ of benefits under the plan.



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347 For purposes of a plan that includes a Deferred Retirement  
348 Option Plan (DROP), "retirement" means the date a firefighter  
349 enters the DROP.

350 (21) "Special act plan" means a plan subject to the  
351 provisions of this chapter which was created by an act of the  
352 Legislature and continues to require an act of the Legislature  
353 to alter plan benefits.

354 (22) "Special benefits" means benefits provided in a  
355 defined contribution plan for firefighters.

356 (23)(16) "Special fire control district" means a special  
357 district, as defined in s. 189.012, established for the purposes  
358 of extinguishing fires, protecting life, and protecting property  
359 within the incorporated or unincorporated portions of a ~~any~~  
360 county or combination of counties, or within any combination of  
361 incorporated and unincorporated portions of a ~~any~~ county or  
362 combination of counties. The term does not include any dependent  
363 or independent special district, as those terms are defined in  
364 s. 189.012, the employees of which are members of the Florida  
365 Retirement System pursuant to s. 121.051(1) or (2).

366 (24)(17) "Supplemental plan" means a plan to which deposits  
367 are made to provide ~~special extra~~ benefits for firefighters, or  
368 for firefighters and police officers ~~if both are where~~ included  
369 ~~under this chapter~~. Such a plan is an element of a local law  
370 plan and exists in conjunction with a defined benefit plan  
371 component that meets ~~the~~ minimum benefits and minimum standards  
372 of this chapter. Any supplemental plan in existence on March 1,  
373 2015, shall be deemed to be a defined contribution plan in  
374 compliance with s. 175.351(6).

375 (25)(18) "Supplemental plan municipality" means a ~~any~~ local



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376 law municipality in which ~~there existed~~ a supplemental plan  
377 ~~existed, of any type or nature,~~ as of December 1, 2000.

378 Section 3. Subsection (7) of section 175.071, Florida  
379 Statutes, is amended to read:

380 175.071 General powers and duties of board of trustees.—For  
381 any municipality, special fire control district, chapter plan,  
382 local law municipality, local law special fire control district,  
383 or local law plan under this chapter:

384 (7) To assist the board in meeting its responsibilities  
385 under this chapter, the board, if it so elects, may:

386 (a) Employ independent legal counsel at the pension fund's  
387 expense.

388 (b) Employ an independent enrolled actuary, as defined in  
389 s. 175.032~~(7)~~, at the pension fund's expense.

390 (c) Employ such independent professional, technical, or  
391 other advisers as it deems necessary at the pension fund's  
392 expense.

393  
394 If the board chooses to use the municipality's or special  
395 district's legal counsel or actuary, or chooses to use any of  
396 the municipality's or special district's other professional,  
397 technical, or other advisers, it must do so only under terms and  
398 conditions acceptable to the board.

399 Section 4. Paragraph (d) of subsection (1) of section  
400 175.091, Florida Statutes, is amended to read:

401 175.091 Creation and maintenance of fund.—For any  
402 municipality, special fire control district, chapter plan, local  
403 law municipality, local law special fire control district, or  
404 local law plan under this chapter:



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405 (1) The firefighters' pension trust fund in each  
406 municipality and in each special fire control district shall be  
407 created and maintained in the following manner:

408 (d) By mandatory payment by the municipality or special  
409 fire control district of a sum equal to the normal cost of and  
410 the amount required to fund any actuarial deficiency shown by an  
411 actuarial valuation conducted under ~~as provided in~~ part VII of  
412 chapter 112 after taking into account the amounts described in  
413 paragraphs (b), (c), (e), (f), and (g) and the tax proceeds  
414 described in paragraph (a) which are used to fund benefits in a  
415 defined benefit plan component.

416  
417 Nothing in this section shall be construed to require adjustment  
418 of member contribution rates in effect on the date this act  
419 becomes a law, including rates that exceed 5 percent of salary,  
420 provided that such rates are at least one-half of 1 percent of  
421 salary.

422 Section 5. Paragraph (a) of subsection (2) of section  
423 175.162, Florida Statutes, is amended to read:

424 175.162 Requirements for retirement.—For any municipality,  
425 special fire control district, chapter plan, local law  
426 municipality, local law special fire control district, or local  
427 law plan under this chapter, any firefighter who completes 10 or  
428 more years of creditable service as a firefighter and attains  
429 age 55, or completes 25 years of creditable service as a  
430 firefighter and attains age 52, and who for such minimum period  
431 has been a member of the firefighters' pension trust fund  
432 operating under a chapter plan or local law plan, is eligible  
433 for normal retirement benefits. Normal retirement under the plan



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434 is retirement from the service of the municipality or special  
435 fire control district on or after the normal retirement date. In  
436 such event, payment of retirement income will be governed by the  
437 following provisions of this section:

438 (2) (a) 1. The amount of monthly retirement income payable to  
439 a full-time firefighter who retires on or after his or her  
440 normal retirement date shall be an amount equal to the number of  
441 his or her years of credited service multiplied by 2.75 ~~2~~  
442 percent of his or her average final compensation as a full-time  
443 firefighter. ~~However, if current state contributions pursuant to~~  
444 ~~this chapter are not adequate to fund the additional benefits to~~  
445 ~~meet the minimum requirements in this chapter, only such~~  
446 ~~incremental increases shall be required as state moneys are~~  
447 ~~adequate to provide. Such increments shall be provided as state~~  
448 ~~moneys become available.~~

449 2. Effective July 1, 2015, a plan that is in compliance  
450 with this chapter except that the plan provides a benefit that  
451 is less than 2.75 percent of the average final compensation of a  
452 full-time firefighter for all years of credited service or  
453 provides an effective benefit that is less than 2.75 percent as  
454 a result of a maximum benefit limitation:

455 a. Must maintain, at a minimum, the percentage amount or  
456 maximum benefit limitation in effect on July 1, 2015, and is not  
457 required to increase the benefit to 2.75 percent of the average  
458 final compensation of a full-time firefighter for all years of  
459 credited service; or

460 b. If the plan changes the percentage amount or maximum  
461 benefit limitation to 2.75 percent, or more, of the average  
462 final compensation of a full-time firefighter for all years of



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463 credited service, the plan may not thereafter decrease the  
464 percentage amount or maximum benefit limitation to less than  
465 2.75 percent of the average final compensation of a full-time  
466 firefighter for all years of credited service.

467 Section 6. Section 175.351, Florida Statutes, is amended to  
468 read:

469 175.351 Municipalities and special fire control districts  
470 that have ~~having~~ their own retirement ~~pension~~ plans for  
471 firefighters. ~~For any municipality, special fire control~~  
472 district, local law municipality, local law special fire control  
473 district, or local law plan under this chapter, In order for a  
474 municipality or municipalities and special fire control district  
475 that has its districts with their own retirement plan ~~pension~~  
476 plans for firefighters, or for firefighters and police officers  
477 if both are included, to participate in the distribution of the  
478 tax fund established under ~~pursuant to~~ s. 175.101, a local law  
479 plan ~~plans~~ must meet the minimum benefits and minimum standards,  
480 except as provided in the mutual consent provisions in paragraph  
481 (1)(g) with respect to the minimum benefits not met as of  
482 October 1, 2012 ~~set forth in this chapter.~~

483 (1) If a municipality has a retirement ~~pension~~ plan for  
484 firefighters, or a ~~pension plan~~ for firefighters and police  
485 officers if both are included, which in the opinion of the  
486 division meets the minimum benefits and minimum standards ~~set~~  
487 forth in this chapter, the board of trustees of the retirement  
488 pension plan ~~must, as approved by a majority of firefighters of~~  
489 the municipality, may:

490 (a) place the income from the premium tax in s. 175.101 in  
491 such ~~pension~~ plan for the sole and exclusive use of its



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492 firefighters, or for firefighters and police officers if both  
493 are included, where it shall become an integral part of that  
494 ~~pension~~ plan and shall be used to fund benefits as provided  
495 herein. Effective October 1, 2015, for noncollectively bargained  
496 service or upon entering into a collective bargaining agreement  
497 on or after July 1, 2015:

498 (a) The base premium tax revenues must be used to fund  
499 minimum benefits or other retirement benefits in excess of the  
500 minimum benefits as determined by the municipality or special  
501 fire control district.

502 (b) Of the additional premium tax revenues received that  
503 are in excess of the amount received for the 2012 calendar year,  
504 50 percent must be used to fund minimum benefits or other  
505 retirement benefits in excess of the minimum benefits as  
506 determined by the municipality or special fire control district,  
507 and 50 percent must be placed in a defined contribution plan to  
508 fund special benefits.

509 (c) Additional premium tax revenues not described in  
510 paragraph (b) must be used to fund benefits that are not  
511 included in the minimum benefits. If the additional premium tax  
512 revenues subject to this paragraph exceed the full annual cost  
513 of benefits provided through the plan which are in excess of the  
514 minimum benefits, any amount in excess of the full annual cost  
515 must be used as provided in paragraph (b).

516 (d) Of any accumulations of additional premium tax revenues  
517 which have not been allocated to fund benefits in excess of the  
518 minimum benefits, 50 percent of the amount of the accumulations  
519 must be used to fund special benefits, and 50 percent must be  
520 applied to fund any unfunded actuarial liabilities of the plan;



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521 provided that any amount of accumulations in excess of the  
522 amount required to fund the unfunded actuarial liabilities must  
523 be used to fund special benefits to pay extra benefits to the  
524 firefighters included in that pension plan; or

525 ~~(b) Place the income from the premium tax in s. 175.101 in~~  
526 ~~a separate supplemental plan to pay extra benefits to~~  
527 ~~firefighters, or to firefighters and police officers if~~  
528 ~~included, participating in such separate supplemental plan.~~

529 (e) For a plan created after March 1, 2015, 50 percent of  
530 the insurance premium tax revenues must be used to fund defined  
531 benefit plan component benefits, with the remainder used to fund  
532 defined contribution plan component benefits.

533 (f) If a plan offers benefits in excess of the minimum  
534 benefits, such benefits, excluding supplemental plan benefits in  
535 effect as of September 30, 2014, may be reduced if the plan  
536 continues to meet minimum benefits and minimum standards. The  
537 amount of insurance premium tax revenues previously used to fund  
538 benefits in excess of minimum benefits before the reduction,  
539 excluding the amount of any additional premium tax revenues  
540 distributed to a supplemental plan for the 2012 calendar year,  
541 must be used as provided in paragraph (b). However, benefits in  
542 excess of minimum benefits may not be reduced if a plan does not  
543 meet the minimum percentage amount of 2.75 percent of the  
544 average final compensation of a full-time firefighter, as  
545 required by s. 175.162(2)(a)1., or provides an effective benefit  
546 that is below 2.75 percent as a result of a maximum benefit  
547 limitation as described in s. 175.162(2)(a)2.

548 (g) Notwithstanding paragraphs (a)-(f), the use of premium  
549 tax revenues, including any accumulations of additional premium



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550 tax revenues which have not been allocated to fund benefits in  
551 excess of minimum benefits, may deviate from the provisions of  
552 this subsection by mutual consent of the members' collective  
553 bargaining representative or, if there is no representative, by  
554 a majority of the firefighter members of the fund, and by  
555 consent of the municipality or special fire control district,  
556 provided that the plan continues to meet minimum benefits and  
557 minimum standards; however, a plan that operates pursuant to  
558 this paragraph and does not meet minimum benefits as of October  
559 1, 2012, may continue to provide the benefits that do not meet  
560 the minimum benefits at the same level as was provided as of  
561 October 1, 2012, and all other benefit levels must continue to  
562 meet the minimum benefits. Such mutually agreed deviation must  
563 continue until modified or revoked by subsequent mutual consent  
564 of the members' collective bargaining representative or, if  
565 none, by a majority of the firefighter members of the fund, and  
566 the municipality or special fire control district. An existing  
567 arrangement for the use of premium tax revenues contained within  
568 a special act plan or a plan within a supplemental plan  
569 municipality is considered, as of July 1, 2015, to be a  
570 deviation for which mutual consent has been granted.

571 (2) The premium tax provided by this chapter ~~must~~ shall in  
572 all cases be used in its entirety to provide retirement ~~extra~~  
573 benefits to firefighters, or to firefighters and police officers  
574 if both are included. However, local law plans in effect on  
575 October 1, 1998, must comply with the minimum benefit provisions  
576 of this chapter only to the extent that additional premium tax  
577 revenues become available to incrementally fund the cost of such  
578 compliance as provided in s. 175.162(2)(a). If a plan is in



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579 ~~compliance with such minimum benefit provisions, as subsequent~~  
580 ~~additional premium tax revenues become available, they must be~~  
581 ~~used to provide extra benefits.~~ Local law plans created by  
582 special act before May 27, 1939, are deemed to comply with this  
583 chapter. ~~For the purpose of this chapter, the term:~~

584 ~~(a) "Additional premium tax revenues" means revenues~~  
585 ~~received by a municipality or special fire control district~~  
586 ~~pursuant to s. 175.121 which exceed that amount received for~~  
587 ~~calendar year 1997.~~

588 ~~(b) "Extra benefits" means benefits in addition to or~~  
589 ~~greater than those provided to general employees of the~~  
590 ~~municipality and in addition to those in existence for~~  
591 ~~firefighters on March 12, 1999.~~

592 (3) A retirement plan or amendment to a retirement plan may  
593 not be proposed for adoption unless the proposed plan or  
594 amendment contains an actuarial estimate of the costs involved.  
595 Such proposed plan or proposed plan change may not be adopted  
596 without the approval of the municipality, special fire control  
597 district, or, where required permitted, the Legislature. Copies  
598 of the proposed plan or proposed plan change and the actuarial  
599 impact statement of the proposed plan or proposed plan change  
600 shall be furnished to the division before the last public  
601 ~~hearing on the proposal is held thereon~~. Such statement must  
602 also indicate whether the proposed plan or proposed plan change  
603 is in compliance with s. 14, Art. X of the State Constitution  
604 and those provisions of part VII of chapter 112 which are not  
605 expressly provided in this chapter. Notwithstanding any other  
606 provision, only those local law plans created by special act of  
607 legislation before May 27, 1939, are deemed to meet ~~the~~ minimum



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608 benefits and minimum standards ~~only in this chapter.~~

609 (4) Notwithstanding any other provision, with respect to  
610 any supplemental plan municipality:

611 (a) A local law plan and a supplemental plan may continue  
612 to use their definition of compensation or salary in existence  
613 on March 12, 1999.

614 (b) Section 175.061(1)(b) does not apply, and a local law  
615 plan and a supplemental plan shall continue to be administered  
616 by a board or boards of trustees numbered, constituted, and  
617 selected as the board or boards were numbered, constituted, and  
618 selected on December 1, 2000.

619 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~  
620 ~~have been made.~~

621 (5) The retirement plan setting forth the benefits and the  
622 trust agreement, if any, covering the duties and  
623 responsibilities of the trustees and the regulations of the  
624 investment of funds must be in writing, and copies made  
625 available to the participants and to the general public.

626 (6) In addition to the defined benefit plan component of  
627 the local law plan, each plan sponsor must have a defined  
628 contribution plan component within the local law plan by October  
629 1, 2015, for noncollectively bargained service, upon entering  
630 into a collective bargaining agreement on or after July 1, 2015,  
631 or upon the creation date of a new participating plan. Depending  
632 upon the application of subsection (1), a defined contribution  
633 plan component may or may not receive any funding.

634 (7) Notwithstanding any other provision of this chapter, a  
635 municipality or special fire control district that has  
636 implemented or proposed changes to a local law plan based on the





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637 municipality's or district's reliance on an interpretation of  
638 this chapter by the Department of Management Services on or  
639 after August 14, 2012, and before March 3, 2015, may continue  
640 the implemented changes or continue to implement proposed  
641 changes. Such reliance must be evidenced by a written collective  
642 bargaining proposal or agreement, or formal correspondence  
643 between the municipality or district and the Department of  
644 Management Services which describes the specific changes to the  
645 local law plan, with the initial proposal, agreement, or  
646 correspondence from the municipality or district dated before  
647 March 3, 2015. Changes to the local law plan which are otherwise  
648 contrary to minimum benefits and minimum standards may continue  
649 in effect until the earlier of October 1, 2018, or the effective  
650 date of a collective bargaining agreement that is contrary to  
651 the changes to the local law plan.

652 Section 7. Subsection (2) of section 185.01, Florida  
653 Statutes, is amended to read:

654 185.01 Legislative declaration.—

655 (2) This chapter hereby establishes, for all municipal  
656 pension plans ~~now or hereinafter~~ provided for under this  
657 chapter, including chapter plans and local law plans, minimum  
658 benefits and minimum standards for the operation and funding of  
659 such plans, hereinafter referred to as municipal police  
660 officers' retirement trust funds, which must be met as  
661 conditions precedent to the plan or plan sponsor receiving a  
662 distribution of insurance premium tax revenues under s. 185.10.  
663 ~~The~~ Minimum benefits and minimum standards for each plan set  
664 ~~forth in this chapter~~ may not be diminished by local ordinance  
665 or by special act of the Legislature and may not, ~~nor may the~~



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666 ~~minimum benefits or minimum standards~~ be reduced or offset by  
667 any other local, state, or federal plan that ~~includes may~~  
668 ~~include~~ police officers in its operation, except as provided  
669 under s. 112.65.

670 Section 8. Section 185.02, Florida Statutes, is amended to  
671 read:

672 185.02 Definitions.—For any municipality, chapter plan,  
673 local law municipality, or local law plan under this chapter,  
674 the term following words and phrases as used in this chapter  
675 shall have the following meanings, unless a different meaning is  
676 plainly required by the context:

677 (1) "Additional premium tax revenues" means revenues  
678 received by a municipality pursuant to s. 185.10 which exceed  
679 base premium tax revenues.

680 (2) ~~(1)~~ "Average final compensation" means one-twelfth of  
681 the average annual compensation of the 5 best years of the last  
682 10 years of creditable service before ~~prior to~~ retirement,  
683 termination, or death.

684 (3) "Base premium tax revenues" means:

685 (a) For a local law plan in effect on October 1, 1998, the  
686 revenues received by a municipality pursuant to s. 185.10 for  
687 the 1997 calendar year.

688 (b) For a local law plan created between October 1, 1998,  
689 and March 1, 2015, inclusive, the revenues received by a  
690 municipality pursuant to s. 185.10 based upon the tax  
691 collections during the second calendar year of participation.

692 (4) ~~(2)~~ "Casualty insurance" means automobile public  
693 liability and property damage insurance to be applied at the  
694 place of residence of the owner, or if the subject is a



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695 commercial vehicle, to be applied at the place of business of  
696 the owner; automobile collision insurance; fidelity bonds;  
697 burglary and theft insurance; and plate glass insurance. The  
698 term "multiple peril" means a combination or package policy that  
699 includes both property coverage and casualty coverage for a  
700 single premium.

701 (5)(3) "Chapter plan" means a separate defined benefit  
702 pension plan for police officers which incorporates by reference  
703 the provisions of this chapter and has been adopted by the  
704 governing body of a municipality as provided in s. 185.08.  
705 Except as ~~may be~~ specifically authorized in this chapter, the  
706 provisions of a chapter plan may not differ from the plan  
707 provisions set forth in ss. 185.01-185.341 and ss. 185.37-  
708 185.39. Actuarial valuations of chapter plans shall be conducted  
709 by the division as provided by s. 185.221(1)(b).

710 (6)(4) "Compensation" or "salary" means, for  
711 noncollectively bargained service earned before July 1, 2011, or  
712 for service earned under collective bargaining agreements in  
713 place before July 1, 2011, the total cash remuneration including  
714 "overtime" paid by the primary employer to a police officer for  
715 services rendered, but not including any payments for extra duty  
716 or special detail work performed on behalf of a second party  
717 employer. Overtime may be limited before July 1, 2011, in a  
718 local law plan by the plan provisions ~~A local law plan may limit~~  
719 ~~the amount of overtime payments which can be used for retirement~~  
720 ~~benefit calculation purposes; however, such overtime limit may~~  
721 ~~not be less than 300 hours per officer per calendar year.~~ For  
722 noncollectively bargained service earned on or after July 1,  
723 2011, or for service earned under collective bargaining



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724 agreements entered into on or after July 1, 2011, the term has  
725 the same meaning except that when calculating retirement  
726 benefits, up to 300 hours per year in overtime compensation may  
727 be included as specified in the plan or collective bargaining  
728 agreement, but payments for accrued unused sick or annual leave  
729 may not be included.

730 (a) Any retirement trust fund or plan that meets the  
731 requirements of this chapter does not, solely by virtue of this  
732 subsection, reduce or diminish the monthly retirement income  
733 otherwise payable to each police officer covered by the  
734 retirement trust fund or plan.

735 (b) The member's compensation or salary contributed as  
736 employee-elective salary reductions or deferrals to any salary  
737 reduction, deferred compensation, or tax-sheltered annuity  
738 program authorized under the Internal Revenue Code shall be  
739 deemed to be the compensation or salary the member would receive  
740 if he or she were not participating in such program and shall be  
741 treated as compensation for retirement purposes under this  
742 chapter.

743 (c) For any person who first becomes a member in any plan  
744 year beginning on or after January 1, 1996, compensation for  
745 that plan year may not include any amounts in excess of the  
746 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
747 the Omnibus Budget Reconciliation Act of 1993, which limitation  
748 of \$150,000 shall be adjusted as required by federal law for  
749 qualified government plans and ~~shall be~~ further adjusted for  
750 changes in the cost of living in the manner provided by Internal  
751 Revenue Code s. 401(a)(17)(B). For any person who first became a  
752 member before the first plan year beginning on or after January



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753 1, 1996, the limitation on compensation may not be less than the  
754 maximum compensation amount that was allowed to be taken into  
755 account under the plan ~~as~~ in effect on July 1, 1993, which  
756 limitation shall be adjusted for changes in the cost of living  
757 since 1989 in the manner provided by Internal Revenue Code s.  
758 401(a) (17) (1991).

759 ~~(7)(5)~~ "Creditable service" or "credited service" means the  
760 aggregate number of years of service and fractional parts of  
761 years of service of any police officer, omitting intervening  
762 years and fractional parts of years when such police officer may  
763 not have been employed by the municipality subject to the  
764 following conditions:

765 (a) ~~A~~ ~~Ne~~ police officer may not will receive credit for  
766 years or fractional parts of years of service if he or she has  
767 withdrawn his or her contributions to the fund for those years  
768 or fractional parts of years of service, unless the police  
769 officer repays into the fund the amount he or she has withdrawn,  
770 plus interest as determined by the board. The member has shall  
771 ~~have~~ at least 90 days after his or her reemployment to make  
772 repayment.

773 (b) A police officer may voluntarily leave his or her  
774 contributions in the fund for ~~a period of~~ 5 years after leaving  
775 the employ of the police department, pending the possibility of  
776 his or her being rehired by the same department, without losing  
777 credit for the time he or she has participated actively as a  
778 police officer. If he or she is not reemployed as a police  
779 officer with the same department within 5 years, his or her  
780 contributions shall be returned ~~to him or her~~ without interest.

781 (c) Credited service under this chapter shall be provided



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782 only for service as a police officer, ~~as defined in subsection~~  
783 ~~(11)~~, or for military service and may not include credit for any  
784 other type of service. A municipality ~~may~~, by local ordinance,  
785 may provide for the purchase of credit for military service  
786 occurring before employment as well as prior service as a police  
787 officer for some other employer as long as the police officer is  
788 not entitled to receive a benefit for such ~~other~~ prior service  
789 ~~as a police officer~~. For purposes of determining credit for  
790 prior service, in addition to service as a police officer in  
791 this state, credit may be given for federal, other state, or  
792 county service as long as such service is recognized by the  
793 Criminal Justice Standards and Training Commission within the  
794 Department of Law Enforcement as provided in under chapter 943  
795 or the police officer provides proof to the board of trustees  
796 that such service is equivalent to the service required to meet  
797 the definition of a police officer ~~under subsection (11)~~.

798 (d) In determining the creditable service of a any police  
799 officer, credit for up to 5 years of the time spent in the  
800 military service of the Armed Forces of the United States shall  
801 be added to the years of actual service, ~~if~~:

802 1. The police officer is in the active employ of the  
803 municipality before ~~prior to~~ such service and leaves a position,  
804 other than a temporary position, for the purpose of voluntary or  
805 involuntary service in the Armed Forces of the United States.

806 2. The police officer is entitled to reemployment under ~~the~~  
807 ~~provisions of~~ the Uniformed Services Employment and Reemployment  
808 Rights Act.

809 3. The police officer returns to his or her employment as a  
810 police officer of the municipality within 1 year after ~~from~~ the



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811 date of his or her release from such active service.

812 ~~(8)(6)~~ "Deferred Retirement Option Plan" or "DROP" means a  
813 local law plan retirement option in which a police officer may  
814 elect to participate. A police officer may retire for all  
815 purposes of the plan and defer receipt of retirement benefits  
816 into a DROP account while continuing employment with his or her  
817 employer. However, a police officer who enters the DROP and who  
818 is otherwise eligible to participate ~~may shall not thereby~~ be  
819 precluded from participation or continued participation  
820 ~~participating, or continuing to participate~~, in a supplemental  
821 plan in existence on, or created after, March 12, 1999 ~~the~~  
822 ~~effective date of this act.~~

823 (9) "Defined contribution plan" means the component of a  
824 local law plan, as provided in s. 185.35(1), to which deposits,  
825 if any, are made to provide benefits for police officers, or for  
826 police officers and firefighters if both are included. Such  
827 component is an element of a local law plan and exists in  
828 conjunction with the defined benefit component that meets  
829 minimum benefits and minimum standards. The retirement benefits,  
830 if any, of the defined contribution plan shall be provided  
831 through individual member accounts in accordance with the  
832 applicable provisions of the Internal Revenue Code and related  
833 regulations and are limited to the contributions, if any, made  
834 into each member's account and the actual accumulated earnings,  
835 net of expenses, earned on the member's account.

836 ~~(10)(7)~~ "Division" means the Division of Retirement of the  
837 Department of Management Services.

838 ~~(11)(8)~~ "Enrolled actuary" means an actuary who is enrolled  
839 under Subtitle C of Title III of the Employee Retirement Income



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840 Security Act of 1974 and who is a member of the Society of  
841 Actuaries or the American Academy of Actuaries.

842 ~~(12)(9)~~ "Local law municipality" ~~means is~~ any municipality  
843 in which ~~there exists~~ a local law plan ~~exists~~.

844 ~~(13)(10)~~ "Local law plan" means a retirement defined  
845 benefit pension plan that includes both a defined benefit plan  
846 component and a defined contribution plan component for police  
847 officers, or for police officers and firefighters if both are,  
848 ~~where~~ included, as described in s. 185.35, established by  
849 municipal ordinance or special act of the Legislature, which  
850 ~~enactment~~ sets forth all plan provisions. Local law plan  
851 provisions may vary from the provisions of this chapter ~~if,~~  
852 ~~provided that required~~ minimum benefits and minimum standards  
853 are met. However, any such variance ~~must shall~~ provide a greater  
854 benefit for police officers. Actuarial valuations of local law  
855 plans shall be conducted by an enrolled actuary as provided in  
856 s. 185.221(2) (b).

857 (14) "Minimum benefits" means the benefits specified in ss.  
858 185.01-185.341 and ss. 185.37-185.50.

859 (15) "Minimum standards" means the standards specified in  
860 ss. 185.01-185.50.

861 ~~(16)(11)~~ "Police officer" means any person who is elected,  
862 appointed, or employed full time by a ~~any~~ municipality, who is  
863 certified or required to be certified as a law enforcement  
864 officer in compliance with s. 943.1395, who is vested with  
865 authority to bear arms and make arrests, and whose primary  
866 responsibility is the prevention and detection of crime or the  
867 enforcement of the penal, criminal, traffic, or highway laws of  
868 the state. The term ~~This definition~~ includes all certified



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869 supervisory and command personnel whose duties include, in whole  
870 or in part, the supervision, training, guidance, and management  
871 responsibilities of full-time law enforcement officers, part-  
872 time law enforcement officers, or auxiliary law enforcement  
873 officers, but does not include part-time law enforcement  
874 officers or auxiliary law enforcement officers as those terms  
875 ~~the same~~ are defined in s. 943.10(6) and (8), respectively. For  
876 the purposes of this chapter only, the term also includes  
877 ~~“police officer”~~ also shall include a public safety officer who  
878 is responsible for performing both police and fire services. Any  
879 plan may provide that the police chief shall have an option to  
880 participate, ~~or not,~~ in that plan.

881 (17)(12) “Police Officers’ Retirement Trust Fund” means a  
882 trust fund, by whatever name known, as provided under s. 185.03  
883 for the purpose of assisting municipalities in establishing and  
884 maintaining a retirement plan for police officers.

885 (18)(13) “Retiree” or “retired police officer” means a  
886 police officer who has entered retirement status. For the  
887 purposes of a plan that includes a Deferred Retirement Option  
888 Plan (DROP), a police officer who enters the DROP ~~is shall be~~  
889 considered a retiree for all purposes of the plan. However, a  
890 police officer who enters the DROP and who is otherwise eligible  
891 to participate ~~may shall not thereby~~ be precluded from  
892 participation or continued participation participating, or  
893 ~~continuing to participate,~~ in a supplemental plan in existence  
894 on, or created after, March 12, 1999 ~~the effective date of this~~  
895 ~~act.~~

896 (19)(14) “Retirement” means a police officer’s separation  
897 from municipal ~~city~~ employment as a police officer with



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898 immediate eligibility for ~~receipt of~~ benefits under the plan.  
899 For purposes of a plan that includes a Deferred Retirement  
900 Option Plan (DROP), “retirement” means the date a police officer  
901 enters the DROP.

902 (20) “Special act plan” means a plan subject to the  
903 provisions of this chapter which was created by an act of the  
904 Legislature and continues to require an act of the Legislature  
905 to alter plan benefits.

906 (21) “Special benefits” means benefits provided in a  
907 defined contribution plan component for police officers.

908 (22)(15) “Supplemental plan” means a plan to which deposits  
909 of the premium tax moneys as provided in s. 185.08 are made to  
910 provide special extra benefits to police officers, or police  
911 officers and firefighters if both are where included, under this  
912 chapter. Such a plan is an element of a local law plan and  
913 exists in conjunction with a defined benefit plan component that  
914 meets the minimum benefits and minimum standards of this  
915 chapter. Any supplemental plan in existence on March 1, 2015,  
916 shall be deemed to be a defined contribution plan in compliance  
917 with s. 185.35(6).

918 (23)(16) “Supplemental plan municipality” means a any local  
919 law municipality in which any there existed a supplemental plan  
920 existed as of December 1, 2000.

921 Section 9. Subsection (6) of section 185.06, Florida  
922 Statutes, is amended to read:

923 185.06 General powers and duties of board of trustees.—For  
924 any municipality, chapter plan, local law municipality, or local  
925 law plan under this chapter:

926 (6) To assist the board in meeting its responsibilities



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927 under this chapter, the board, if it so elects, may:

928 (a) Employ independent legal counsel at the pension fund's  
929 expense.

930 (b) Employ an independent enrolled actuary, as defined in  
931 s. 185.02~~(4)~~, at the pension fund's expense.

932 (c) Employ such independent professional, technical, or  
933 other advisers as it deems necessary at the pension fund's  
934 expense.

935

936 If the board chooses to use the municipality's or special  
937 district's legal counsel or actuary, or chooses to use any of  
938 the municipality's other professional, technical, or other  
939 advisers, it must do so only under terms and conditions  
940 acceptable to the board.

941 Section 10. Paragraph (d) of subsection (1) of section  
942 185.07, Florida Statutes, is amended to read:

943 185.07 Creation and maintenance of fund.—For any  
944 municipality, chapter plan, local law municipality, or local law  
945 plan under this chapter:

946 (1) The municipal police officers' retirement trust fund in  
947 each municipality described in s. 185.03 shall be created and  
948 maintained in the following manner:

949 (d) By payment by the municipality or other sources of a  
950 sum equal to the normal cost and the amount required to fund any  
951 actuarial deficiency shown by an actuarial valuation conducted  
952 under as provided in part VII of chapter 112 after taking into  
953 account the amounts described in paragraphs (b), (c), (e), (f),  
954 and (g) and the tax proceeds described in paragraph (a) which  
955 are used to fund benefits provided in a defined benefit plan



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956 component.

957

958 Nothing in this section shall be construed to require adjustment  
959 of member contribution rates in effect on the date this act  
960 becomes a law, including rates that exceed 5 percent of salary,  
961 provided that such rates are at least one-half of 1 percent of  
962 salary.

963 Section 11. Subsection (2) of section 185.16, Florida  
964 Statutes, is amended to read:

965 185.16 Requirements for retirement.—For any municipality,  
966 chapter plan, local law municipality, or local law plan under  
967 this chapter, any police officer who completes 10 or more years  
968 of creditable service as a police officer and attains age 55, or  
969 completes 25 years of creditable service as a police officer and  
970 attains age 52, and for such period has been a member of the  
971 retirement fund is eligible for normal retirement benefits.  
972 Normal retirement under the plan is retirement from the service  
973 of the city on or after the normal retirement date. In such  
974 event, for chapter plans and local law plans, payment of  
975 retirement income will be governed by the following provisions  
976 of this section:

977 (2) (a) The amount of the monthly retirement income payable  
978 to a police officer who retires on or after his or her normal  
979 retirement date shall be an amount equal to the number of the  
980 police officer's years of credited service multiplied by 2.75 ~~2~~  
981 percent of his or her average final compensation. ~~However, if~~  
982 ~~current state contributions pursuant to this chapter are not~~  
983 ~~adequate to fund the additional benefits to meet the minimum~~  
984 ~~requirements in this chapter, only increment increases shall be~~



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985 ~~required as state moneys are adequate to provide. Such~~  
986 ~~increments shall be provided as state moneys become available.~~

987 (b) Effective July 1, 2015, a plan that is in compliance  
988 with this chapter except that the plan provides a benefit that  
989 is less than 2.75 percent of the average final compensation of a  
990 police officer for all years of credited service or provides an  
991 effective benefit that is less than 2.75 percent as a result of  
992 a maximum benefit limitation:

993 1. Must maintain, at a minimum, the percentage amount or  
994 maximum benefit limitation in effect on July 1, 2015, and is not  
995 required to increase the benefit to 2.75 percent of the average  
996 final compensation of a police officer for all years of credited  
997 service; or

998 2. If the plan changes the percentage amount or maximum  
999 benefit limitation to 2.75 percent, or more, of the average  
1000 final compensation of a police officer for all years of credited  
1001 service, the plan may not thereafter decrease the percentage  
1002 amount or the maximum benefit limitation to less than 2.75  
1003 percent of the average final compensation of a police officer  
1004 for all years of credited service.

1005 Section 12. Section 185.35, Florida Statutes, is amended to  
1006 read:

1007 185.35 Municipalities ~~that have having~~ their own retirement  
1008 pension plans for police officers. ~~For any municipality, chapter~~  
1009 plan, local law municipality, or local law plan under this  
1010 chapter, In order for a municipality that has its municipalities  
1011 with their own retirement plan pension plans for police  
1012 officers, or for police officers and firefighters if both are  
1013 included, to participate in the distribution of the tax fund



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1014 established ~~under pursuant to~~ s. 185.08, a local law plan ~~plans~~  
1015 must meet the minimum benefits and minimum standards, except as  
1016 provided in the mutual consent provisions in paragraph (1)(g)  
1017 with respect to the minimum benefits not met as of October 1,  
1018 2012. ~~set forth in this chapter.~~

1019 (1) If a municipality has a retirement pension plan for  
1020 police officers, or for police officers and firefighters if both  
1021 are included, which, in the opinion of the division, meets the  
1022 minimum benefits and minimum standards ~~set forth in this~~  
1023 chapter, the board of trustees of the retirement pension plan  
1024 must, as approved by a majority of police officers of the  
1025 municipality, may:

1026 ~~(a)~~ place the income from the premium tax in s. 185.08 in  
1027 such pension plan for the sole and exclusive use of its police  
1028 officers, or its police officers and firefighters if both are  
1029 included, where it shall become an integral part of that pension  
1030 plan and ~~shall~~ be used to fund benefits as provided herein.  
1031 Effective October 1, 2015, for noncollectively bargained service  
1032 or upon entering into a collective bargaining agreement on or  
1033 after July 1, 2015:

1034 (a) The base premium tax revenues must be used to fund  
1035 minimum benefits or other retirement benefits in excess of the  
1036 minimum benefits as determined by the municipality.

1037 (b) Of the additional premium tax revenues received that  
1038 are in excess of the amount received for the 2012 calendar year,  
1039 50 percent must be used to fund minimum benefits or other  
1040 retirement benefits in excess of the minimum benefits as  
1041 determined by the municipality, and 50 percent must be placed in  
1042 a defined contribution plan component to fund special benefits.



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1043 (c) Additional premium tax revenues not described in  
1044 paragraph (b) must be used to fund benefits that are not  
1045 included in the minimum benefits. If the additional premium tax  
1046 revenues subject to this paragraph exceed the full annual cost  
1047 of benefits provided through the plan which are in excess of the  
1048 minimum benefits, any amount in excess of the full annual cost  
1049 must be used as provided in paragraph (b).

1050 (d) Of any accumulations of additional premium tax revenues  
1051 which have not been allocated to fund benefits in excess of the  
1052 minimum benefits, 50 percent of the amount of the accumulations  
1053 must be used to fund special benefits and 50 percent must be  
1054 applied to fund any unfunded actuarial liabilities of the plan;  
1055 provided that any amount of accumulations in excess of the  
1056 amount required to fund the unfunded actuarial liabilities must  
1057 be used to fund special benefits ~~pay extra benefits to the~~  
1058 ~~police officers included in that pension plan; or~~

1059 ~~(b) May place the income from the premium tax in s. 185.08~~  
1060 ~~in a separate supplemental plan to pay extra benefits to the~~  
1061 ~~police officers, or police officers and firefighters if~~  
1062 ~~included, participating in such separate supplemental plan.~~

1063 (e) For a plan created after March 1, 2015, 50 percent of  
1064 the insurance premium tax revenues must be used to fund defined  
1065 benefit plan component benefits, with the remainder used to fund  
1066 defined contribution plan component benefits.

1067 (f) If a plan offers benefits in excess of the minimum  
1068 benefits, such benefits, excluding supplemental plan benefits in  
1069 effect as of September 30, 2014, may be reduced if the plan  
1070 continues to meet minimum benefits and the minimum standards.  
1071 The amount of insurance premium tax revenues previously used to



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1072 fund benefits in excess of the minimum benefits before the  
1073 reduction, excluding the amount of any additional premium tax  
1074 revenues distributed to a supplemental plan for the 2012  
1075 calendar year, must be used as provided in paragraph (b).  
1076 However, benefits in excess of the minimum benefits may not be  
1077 reduced if a plan does not meet the minimum percentage amount of  
1078 2.75 percent of the average final compensation of a police  
1079 officer or provides an effective benefit that is less than 2.75  
1080 percent as a result of a maximum benefit limitation, as  
1081 described in s. 185.16(2)(b).

1082 (g) Notwithstanding paragraphs (a)-(f), the use of premium  
1083 tax revenues, including any accumulations of additional premium  
1084 tax revenues which have not been allocated to fund benefits in  
1085 excess of the minimum benefits, may deviate from the provisions  
1086 of this subsection by mutual consent of the members' collective  
1087 bargaining representative or, if none, by a majority of the  
1088 police officer members of the fund, and by consent of the  
1089 municipality, provided that the plan continues to meet minimum  
1090 benefits and minimum standards; however, a plan that operates  
1091 pursuant to this paragraph and does not meet the minimum  
1092 benefits as of October 1, 2012, may continue to provide the  
1093 benefits that do not meet the minimum benefits at the same level  
1094 as was provided as of October 1, 2012, and all other benefit  
1095 levels must continue to meet the minimum benefits. Such mutually  
1096 agreed deviation must continue until modified or revoked by  
1097 subsequent mutual consent of the members' collective bargaining  
1098 representative or, if none, by a majority of the police officer  
1099 members of the fund, and the municipality. An existing  
1100 arrangement for the use of premium tax revenues contained within





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1101 a special act plan or a plan within a supplemental plan  
1102 municipality is considered, as of July 1, 2015, to be a  
1103 deviation for which mutual consent has been granted.

1104 (2) The premium tax provided by this chapter ~~must shall in~~  
1105 ~~all cases~~ be used in its entirety to provide retirement extra  
1106 benefits to police officers, or to police officers and  
1107 firefighters if both are included. However, local law plans in  
1108 effect on October 1, 1998, must comply with the minimum benefit  
1109 provisions of this chapter only to the extent that additional  
1110 premium tax revenues become available to incrementally fund the  
1111 cost of such compliance as provided in s. 185.16(2). If a plan  
1112 is in compliance with such minimum benefit provisions, as  
1113 subsequent additional tax revenues become available, they shall  
1114 be used to provide extra benefits. Local law plans created by  
1115 special act before May 27, 1939, shall be deemed to comply with  
1116 this chapter. For the purpose of this chapter, the term:

1117 (a) ~~"Additional premium tax revenues" means revenues~~  
1118 ~~received by a municipality pursuant to s. 185.10 which exceed~~  
1119 ~~the amount received for calendar year 1997.~~

1120 (b) ~~"Extra benefits" means benefits in addition to or~~  
1121 ~~greater than those provided to general employees of the~~  
1122 ~~municipality and in addition to those in existence for police~~  
1123 ~~officers on March 12, 1999.~~

1124 (3) A retirement plan or amendment to a retirement plan may  
1125 not be proposed for adoption unless the proposed plan or  
1126 amendment contains an actuarial estimate of the costs involved.  
1127 Such proposed plan or proposed plan change may not be adopted  
1128 without the approval of the municipality or, where required  
1129 permitted, the Legislature. Copies of the proposed plan or



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1130 proposed plan change and the actuarial impact statement of the  
1131 proposed plan or proposed plan change shall be furnished to the  
1132 division before the last public hearing on the proposal is held  
1133 ~~thereon~~. Such statement must also indicate whether the proposed  
1134 plan or proposed plan change is in compliance with s. 14, Art. X  
1135 of the State Constitution and those provisions of part VII of  
1136 chapter 112 which are not expressly provided in this chapter.  
1137 Notwithstanding any other provision, only those local law plans  
1138 created by special act of legislation before May 27, 1939, are  
1139 deemed to meet the minimum benefits and minimum standards only  
1140 in this chapter.

1141 (4) Notwithstanding any other provision, with respect to  
1142 any supplemental plan municipality:

1143 (a) Section 185.02(6)(a) ~~185.02(4)(a)~~ does not apply, and a  
1144 local law plan and a supplemental plan may continue to use their  
1145 definition of compensation or salary in existence on March 12,  
1146 1999.

1147 (b) A local law plan and a supplemental plan must continue  
1148 to be administered by a board or boards of trustees numbered,  
1149 constituted, and selected as the board or boards were numbered,  
1150 constituted, and selected on December 1, 2000.

1151 (c) ~~The election set forth in paragraph (1)(b) is deemed to~~  
1152 ~~have been made.~~

1153 (5) The retirement plan setting forth the benefits and the  
1154 trust agreement, if any, covering the duties and  
1155 responsibilities of the trustees and the regulations of the  
1156 investment of funds must be in writing and copies made available  
1157 to the participants and to the general public.

1158 (6) In addition to the defined benefit component of the



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1159 local law plan, each plan sponsor must have a defined  
1160 contribution plan component within the local law plan by October  
1161 1, 2015, for noncollectively bargained service, upon entering  
1162 into a collective bargaining agreement on or after July 1, 2015,  
1163 or upon the creation date of a new participating plan. Depending  
1164 upon the application of subsection (1), a defined contribution  
1165 component may or may not receive any funding.

1166 (7) Notwithstanding any other provision of this chapter, a  
1167 municipality that has implemented or proposed changes to a local  
1168 law plan based on the municipality's reliance on an  
1169 interpretation of this chapter by the Department of Management  
1170 Services on or after August 14, 2012, and before March 3, 2015,  
1171 may continue the implemented changes or continue to implement  
1172 proposed changes. Such reliance must be evidenced by a written  
1173 collective bargaining proposal or agreement, or formal  
1174 correspondence between the municipality and the Department of  
1175 Management Services which describes the specific changes to the  
1176 local law plan, with the initial proposal, agreement, or  
1177 correspondence from the municipality dated before March 3, 2015.  
1178 Changes to the local law plan which are otherwise contrary to  
1179 minimum benefits and minimum standards may continue in effect  
1180 until the earlier of October 1, 2018, or the effective date of a  
1181 collective bargaining agreement that is contrary to the changes  
1182 to the local law plan.

1183 Section 13. The Legislature finds that a proper and  
1184 legitimate state purpose is served when employees and retirees  
1185 of this state and its political subdivisions, and the  
1186 dependents, survivors, and beneficiaries of such employees and  
1187 retirees, are extended the basic protections afforded by



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1188 governmental retirement systems that provide fair and adequate  
1189 benefits and that are managed, administered, and funded in an  
1190 actuarially sound manner as required under s. 14, Article X of  
1191 the State Constitution and part VII of chapter 112, Florida  
1192 Statutes. Therefore, the Legislature determines and declares  
1193 that this act fulfills an important state interest.

1194 Section 14. This act shall take effect July 1, 2015.

**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.)

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

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BILL: CS/SB 172

INTRODUCER: Governmental Oversight and Accountability Committee and Senators Bradley and Ring

SUBJECT: Local Government Pension Reform

DATE: January 22, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	<b>Fav/CS</b>
2.			CA	
3.			FP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 172 substantially amends provisions specifying how insurance premium tax revenues must be used in police and firefighter pension plans. As a general rule, premium tax revenues equal to the amount received in 1997 by a particular plan must be used to fund the minimum benefits specified in chapters 175 or 185, F.S., and other retirement benefits. Any premium tax revenues received by a plan in excess of the 1997 threshold must be used to fund minimum benefits, additional retirement benefits and defined contribution plans under certain specified situations. The bill authorizes deviation from the specified uses of premium tax revenues, including accumulations of additional tax revenues which have not been applied to fund benefits in excess of the defined minimum benefits, by mutual consent of collective bargaining representatives or majority consent of plan members and consent of the municipality or special fire control district.

The bill increases the minimum annual benefit accrual rate from 2.0 percent to 2.75 percent, subject to certain exceptions.

The bill grandfathers changes to a plan that are based on that particular plan's reliance on an interpretation by the Department of Management Services (DMS) of the existing statute, as evidenced by correspondence with the DMS between August 14, 2012, and March 3, 2015.

The bill also clarifies that a maximum of 300 hours of overtime may be included for purposes of calculating municipal police pension plan benefits.

The overall costs or savings from the bill are indeterminate. The impact of the bill will vary depending upon the level of benefits currently offered by those plans, the amount of revenue received from the insurance premium tax by the plan sponsor, the service accrual rate under each plan, and the terms of any collective bargaining agreement between the plan sponsor and the affected police or firefighter collective bargaining unit. The bill has no fiscal impact on state revenues or expenditures.

## II. Present Situation:

### Background

The Marvin B. Clayton Firefighters' and Police Officers' Pension Trust Fund Acts<sup>1</sup> declare a legitimate state purpose of providing a uniform retirement system for the benefit of firefighters and municipal police officers. All municipal and special district firefighters and all municipal police officers retirement trust fund systems or plans established pursuant to ch. 175 or 185 must be managed, administered, operated, and funded to maximize the protection of firefighters' and police officers' pension trust funds.<sup>2</sup>

In 1939, the Legislature enacted ch. 175, F.S., to encourage cities to establish firefighter retirement plans by providing cities with the incentive of access to premium tax revenues. Fourteen years later, the Legislature enacted ch. 185, F.S., to provide a similar funding mechanism for municipal police officers retirement plans. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.

The Division of Retirement (division) within the DMS administers benefits to local police officers and firefighters under two types of plans, a chapter plan or a local plan. A chapter plan is a plan that adopts the provisions of either ch. 175 or 185 by reference. A local plan is a plan that is created by a special act of the Legislature, or by a local ordinance or resolution that meets the minimum statutory requirements. The division is responsible for overseeing and monitoring these plans, but day-to-day operational control rests with local boards of trustees subject to the regulatory authority of the division.<sup>3</sup> If the division were to deem that a firefighter or police pension plan created pursuant to ch. 175 or 185, F.S., is not in compliance with those chapters, the sponsoring municipality could be denied its distribution of insurance premium tax revenues.

### Funding

Four sources provide funding for these police officer and firefighter pension plans:

- The net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the "premium tax");
- Employee contributions;
- Other revenue sources (fines, gifts, and interest earnings); and
- Mandatory payments by the city of the normal cost of the plan.<sup>4</sup>

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<sup>1</sup> See ch. 175 and 185, F.S.

<sup>2</sup> See ss. 175.021(1) and 185.01(1), F.S.

<sup>3</sup> The division is responsible for administrative oversight of funds, including monitoring for actuarial soundness.

<sup>4</sup> Sections 175.091(1)(a) and 185.07(1), F.S.

An excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or special fire control district funds the Firefighters' Pension Trust Fund of each participating municipality or special fire control district.<sup>5</sup> The insurers pay the tax to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the division.<sup>6</sup> These taxes paid by the insurers are fully creditable against the state insurance premium taxes imposed pursuant to ch. 624, F.S.<sup>7</sup> In other words, a similar amount of tax would be deposited into the state's General Revenue Fund but for the imposition of the local premium tax. In 2013, premium tax distributions to municipalities and special fire districts from the Firefighters' Pension Trust Fund amounted to \$74.7 million.<sup>8</sup>

An excise tax of 0.85 percent imposed on the gross premiums on casualty insurance policies covering property within the boundaries of a municipality funds the Police Officers' Retirement Trust Fund.<sup>9</sup> Similar to the Firefighters' Pension Trust Fund, insurers pay the excise tax to the DOR, which transfers the net proceeds to the appropriate fund at the division.<sup>10</sup> These taxes paid by the insurers are fully creditable against the state insurance premium taxes imposed pursuant to ch. 624, F.S.<sup>11</sup> In other words, a similar amount of tax would be deposited into the state's General Revenue Fund but for the imposition of the local premium tax. In 2013, premium tax distributions to municipalities from the Police Officers' Retirement Trust Fund amounted to \$64.9 million.<sup>12</sup>

Year	Premium Taxes Distributed to Chapter 175 Plans (Firefighter)	Premium Taxes Distributed to Chapter 185 Plans (Police)
1997	\$26,841,000	\$41,030,000
1998	\$29,469,000	\$41,218,000
1999	\$30,116,000	\$42,104,000
2000	\$30,902,000	\$43,600,000
2001	\$34,765,000	\$48,652,000
2002	\$40,044,000	\$54,556,000
2003	\$44,731,000	\$61,545,000
2004	\$48,515,000	\$62,224,000
2005	\$53,460,000	\$64,326,000
2006	\$60,500,000	\$65,619,000
2007	\$69,982,000	\$65,308,000
2008	\$67,152,000	\$63,961,000
2009	\$70,530,000	\$59,426,000
2010	\$70,122,000	\$57,469,000

<sup>5</sup> Section 175.101(1), F.S.

<sup>6</sup> See s. 175.121, F.S.

<sup>7</sup> See s. 624.509(7), F.S.

<sup>8</sup> Department of Management Services, *Firefighters' 2013 Premium Tax Distribution Calculation*, available online at: [https://www.rol.frs.state.fl.us/forms/Fire\\_2013.pdf](https://www.rol.frs.state.fl.us/forms/Fire_2013.pdf) (last visited on January 15, 2015).

<sup>9</sup> See s. 185.08, F.S.

<sup>10</sup> See s. 185.10, F.S.

<sup>11</sup> See s. 624.509(7), F.S.

<sup>12</sup> Department of Management Services, *Police Officers' 2013 Premium Tax Distribution Calculations*, available online at: [https://www.rol.frs.state.fl.us/forms/Police\\_2013.pdf](https://www.rol.frs.state.fl.us/forms/Police_2013.pdf) (last visited on January 15, 2015).

2011	\$71,744,000	\$59,615,000
2012	\$72,471,000	\$62,608,000
2013	\$74,705,000	\$64,869,000

The table above shows the aggregate amount of premium taxes distributed to the ch. 175 (firefighter) plans and ch. 185 (police) plans during the last 17 years. The amounts shown for 1997 are the aggregate amounts distributed to the plans in 1997 and may be used to fund minimum benefits. The difference between the 2013 aggregate amounts and the 1997 aggregate amounts (roughly \$47.9 million for firefighter plans and \$23.8 million for police officer plans) are the “additional premium tax revenues” that have been available only for “extra benefits.”

**Minimum Benefit Levels**

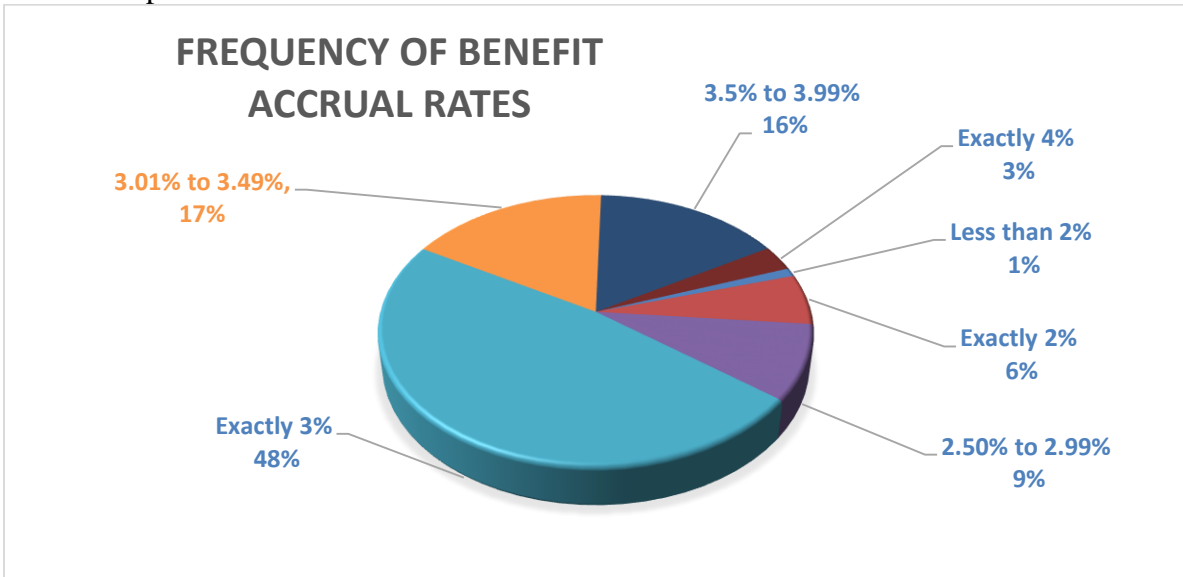
Chapters 175 and 185, F.S., specify certain “minimum benefits” that must be provided in firefighter and police plans,<sup>13</sup> summarized in relevant part below:

<b>Benefit</b>	<b>Description of minimum level</b>
Retirement Benefit	2 percent x average final compensation x years of creditable service.
Average Final Compensation (AFC)	Average annual compensation of highest 5 years of last 10 years of service.
Vesting	10 years.
Normal Retirement Age	Age 55 with 10 years of creditable service or Age 52 with 25 years of service.
Early Retirement	Age 50 with 10 years of service. Retirement benefit is reduced 3 percent for each year prior to reaching normal retirement age.
Earnings	Police = total cash remuneration. Fire = fixed monthly compensation.
Death Benefits	Prior to vesting - beneficiary receives employee contributions without interest earnings. Vested - beneficiary receives benefit based on early or normal retirement benefits, whichever are applicable. Post-retirement - beneficiary receives benefit based on retirement benefit option selected by member at time of retirement.
Disability Benefits	Eligibility - no service requirement for in line of duty disability; 10 years of service for non-service-related disability. Benefits - no less than 25 percent of average monthly earnings if non service-related; no less than 42 percent of average monthly earnings if service related.

The chapter law plans adopt the statutory minimum benefits for their plans. The local law plans have broad discretion to establish the benefit levels, including benefit accrual rates. The chart below shows the frequency of the benefit accrual rates used by the various ch. 175 and ch. 185

<sup>13</sup> Sections 175.032, 175.162, 175.191, 185.02, 185.16, and 185.18, F.S.

plans.<sup>14</sup> A 3 percent annual accrual rate is by far the most frequently used rate – similar to the benefit accrual rate used by the Florida Retirement System for the Special Risk Class membership.



**Historical Interpretation of the Law**

In 1999, the Legislature passed legislation that made virtually all provisions of ch. 175 and 185, F.S., expressly applicable to all participating police officer and firefighter pension plans, except the local law plans established by the cities of Jacksonville, Coral Gables, Miami, and Miami Beach.<sup>15</sup> That legislation required all pension plans operating pursuant to these chapters to meet the specific “minimum benefit” standards and to use the premium tax revenues for certain purposes. A plan was authorized to use on an annual basis the amount of premium tax revenues received by the plan in 1997 to meet the costs of benefits in effect on March 12, 1999. Each plan was required to use the premium tax revenues received above the 1997 threshold to meet the costs of any statutory minimums that were not funded as of March 12, 1999, or to fund “extra benefits”. The term “extra benefits” means benefits in addition to or greater than those provided to general employees of the municipality, and in addition to those in existence for firefighters and police officers on March 12, 1999.<sup>16</sup>

Until August 2012, the division consistently interpreted the law to require that premium tax revenues be used first to meet any minimum benefit requirements and those other pension benefits that were in place on March 12, 1999. Once the plan was in compliance with the minimum benefits requirements, any additional premium tax revenues had to be used to provide extra benefits. Plans were not permitted to reduce pension benefits below the minimum benefits level or the level of pension benefits in effect on March 12, 1999, if greater.

<sup>14</sup> Department of Management Services, *Benefit Accrual Rate Chart*, available online at: [https://www.rol.frs.state.fl.us/forms/Benefit\\_Accrual.pdf](https://www.rol.frs.state.fl.us/forms/Benefit_Accrual.pdf) (last visited on January 16, 2015).

<sup>15</sup> Sections 175.351(3) and 185.35(3), F.S.

<sup>16</sup> See ss. 175.351(2)(b) and 185.35(2)(b), F.S.

### **Re-interpretation of the Law**

In response to a letter from the City of Naples in August 2012, the division advised that its historical interpretation of s. 185.35(2), F.S., “appears inaccurate.” The division was asked, in essence, whether a city that negotiated and mutually agreed with its police officers to reduce benefits below levels in place on March 12, 1999, would jeopardize its premium tax revenues. In its response, the division advised that for local law plans in effect on October 1, 1998, the law compels the plan to provide chapter minimum benefits only to the extent that those benefits can be funded with “additional premium tax revenues.” Thus, for local law plans in effect on October 1, 1998, the division’s re-interpretation of the law requires chapter minimum benefits to be provided only to the extent that those benefits can be funded with premium tax revenues received in excess of the amount received for calendar year 1997.

Under the new interpretation, it appears the division will allow the following actions to occur without impacting the distribution of premium tax revenues:

- A plan sponsor may redirect, at its discretion, its 1997 premium tax revenues from funding minimum pension benefits to funding other non-pension retirement benefits;
- A plan sponsor may reduce plan pension benefits to the level that can be funded solely by those additional premium tax revenues received in excess of the 1997 level;
- A plan sponsor may reduce its mandatory contribution that it was previously making to the plan to fund minimum benefits and to redirect those monies to other municipal purposes; and
- A plan sponsor may use its premium tax revenues in excess of the 1997 threshold (previously restricted to fund “extra benefits” only) to fund any minimum benefits.

The division has subsequently provided this new interpretation to other inquiring cities. DMS has not adopted its original interpretation of the law nor its recent interpretation of the exact same statutory language as a rule.

### **Definition of Salary in Municipal Police Pension Plans**

In 2011, the Legislature imposed a 300 hour cap on the amount of overtime hours to be included in the calculation of retirement benefits in ss. 112.66, 175.032, and 185.02, F.S.<sup>17</sup> The provisions for general public retirement systems (ch. 112, F.S.) and firefighter pensions (ch. 175, F.S.) did not have existing stipulations allowing any overtime hours to be included in the calculation of retirement benefits. Section 185.02(4), F.S., had the following definition before the 2011 changes:

“Compensation” or “salary” means the total cash remuneration including “overtime” paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or a special detail work performed on behalf of a second party employer. However, a local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes, but in no event shall such overtime limit be less than 300 hours per officer per calendar year.

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<sup>17</sup> Chapter 2011-216, L.O.F.



As amended by ch. 2011-216, L.O.F., the section reads as follows:

“Compensation” or “salary” means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the total cash remuneration including “overtime” paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or special detail work performed on behalf of a second party employer. A local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year. For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011, the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be included.

The pre-2011 provision set the limit at no less than 300 hours, effectively acting as a floor or minimum of 300 hours. The current language has been interpreted to mean that after July 1, 2011, the 300 hour floor has been replaced by a 300 hour cap. After the effective date of ch. 2011-216, L.O.F., the division appeared to take the position that the law did not *replace* the floor with a cap, but supplemented the 300 hour floor with a 300 hour cap. In other words, the employer would have had to include at least 300 hours of overtime in the calculation, but could not include more than 300 hours. Subsequently, however, the division has taken the position that the amount of overtime hours that may be included when calculating retirement benefits may be anywhere from 0 to 300 hours.<sup>18</sup>

### **III. Effect of Proposed Changes:**

#### **Definitions**

The bill defines several new terms for purposes of ch. 175 and 185, F.S. The most relevant terms are “additional premium tax revenues,” “base premium tax revenues,” and “minimum benefits.” Additional premium tax revenues mean insurance premium tax revenues received by a municipality (or special fire control district) which exceed base premium tax revenues. Base premium tax revenues are those insurance premium taxes received by a municipality (or special fire control district) for calendar year 1997. Minimum benefits are the benefits set forth in specified sections of chapter 175 (for firefighters and, if included in the plan, police officers) and chapter 185 (for police officers and, if included in the plan, firefighters).

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<sup>18</sup> Letter from the DMS Division of Retirement to City of Largo, dated April 4, 2012, on file with the Committee on Governmental Oversight and Accountability.

The bill substantially changes how insurance premium tax revenues must be used in the funding of police and firefighter pension plans in ch. 175 and 185, F.S.

### **Change of the Minimum Benefit Accrual Rate**

The bill increases the minimum benefit accrual rate from 2.0 percent to 2.75 percent. Plans are permitted to deviate from this minimum benefit accrual rate if the plan is otherwise in compliance with the minimum benefits and minimum standards but provides a benefit accrual rate of less than 2.75 percent. In that instance, the plan must maintain, at a minimum, the benefit accrual rate that was in effect on July 1, 2015. If the plan subsequently increases the benefit accrual rate to 2.75 percent or greater, the plan may not later reduce the rate below 2.75 percent.

### **Use of Insurance Premium Tax Revenues**

The bill amends parallel provisions in ch. 175 and 185, F.S., and specifies that in order to receive insurance premium tax revenues, those revenues must be used as follows:

- Base premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits.
- Of the additional premium tax revenues received in excess of the amount received in calendar year 2012, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits, as determined by the municipality (or special fire control district) and 50 percent must be placed in a defined contribution plan to fund special benefits.
- Additional premium tax revenues not required to be distributed to fund minimum benefits, retirement benefits in excess of minimum benefits or special benefits must be used to fund benefits **not** included in the minimum benefits. If the additional premium tax revenues required to be distributed to fund minimum benefits, additional retirement benefits and special benefits exceed the full cost of benefits provided through a retirement plan:
  - 50 percent of any excess must be used to fund minimum benefits or other retirement benefits; and
  - 50 percent must be placed in a defined contribution plan.
- Any accumulations of additional premium tax revenues which have not been applied to fund benefits in excess of minimum benefits:
  - 50 percent of the accumulation must be used to fund special benefits; and
  - 50 percent must be used to fund any unfunded actuarial liabilities of the plan, provided that any amount of accumulations in excess of amount required to fund unfunded actuarial liabilities must be used to fund special benefits.
- For plans created after March 1, 2015, 50 percent of the insurance premium tax revenues must be used to fund defined benefit plan component benefits and the remainder must be used to fund defined contribution plan component benefits.
- If a plan offers benefits in excess of the minimum benefits, excluding supplemental plan benefits in effect as of September 30, 2014, those plan benefits may be reduced if the plan continues to meet the minimum benefits and minimum standards in ch. 175 and 185, F.S. The amount of insurance premium tax revenues previously used to fund benefits in excess of minimum benefits, excluding supplemental benefits in effect as of September 30, 2014, before the reduction must be used to fund minimum benefits or other retirement benefits (50 percent) and a defined contribution plan (50 percent). However, benefits may not be reduced

if the plan does not have a minimum accrual rate of 2.75 percent, or greater, of the average final compensation of a full-time firefighter or police officer.

Notwithstanding those provisions of the bill, the use of insurance premium tax revenues, including additional tax revenues which have not been applied to fund benefits in excess of the minimum benefits, may deviate from the requirements of the bill by mutual consent of the members' collective bargaining representative or, if there is none, by majority consent of the members' of the fund and consent of the municipality (or special fire control district), provided the plan continues to meet the minimum benefits and the minimum standards of ch. 175 and 185, F.S. However, a plan that does not meet a minimum benefit as of October 1, 2012, may continue to provide the benefit not meeting the minimum benefit at the same level, but not less than that level as was provided on October 1, 2012, and all other benefits must continue to meet the minimum benefits. A mutually agreed deviation must continue until modified or revoked by subsequent mutual consent of the members' collective bargaining representative (or a majority of the members of the fund) and the municipality (or special fire control district). A special act plan or a plan within a supplemental plan municipality are considered to have mutually agreed to such deviation as of July 1, 2015, regarding the existing agreement on the use of premium tax revenues.

The bill also requires plan sponsors to create defined contribution plan components within their plans by October 1, 2015, for noncollectively bargained services, upon entering into a collectively bargaining agreement on or after July 1, 2015, or upon the creation date of a new participating plan. Depending upon the use of insurance premium tax revenues as otherwise provided in the bill, a defined contribution component may or may not receive funding.

The bill explicitly allows plans to use the insurance premium tax revenues and offer benefits below the statutorily required levels in certain instances. The plan must have relied upon the interpretation of the statute by the DMS to reduce the level of benefits or use the premium tax revenues, and such reliance must be evidenced by certain documentation. The plan may continue to offer these reduced benefits and/or use the premium tax revenues in this manner until the earlier of October 1, 2018, or another collective bargaining agreement is negotiated addressing the benefits or use of revenues.

### **300 Hour Cap of Overtime for Benefit Purposes**

The bill amends the definition of "compensation" or "salary" in s. 185.02(4), F.S., relating to police officer retirement plans, to:

- Delete the sentence that states: "A local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year." Deleting this sentence should clarify that the definition has a maximum cap of 300 hours, with no required minimum, consistent with a recent interpretation by the division, as it applies to the inclusion of overtime hours in the calculation of police retirement benefits.
- Provide that overtime may be limited prior to July 1, 2011, in a local law plan by the plan provisions. Local law plans are retirement plans, which include a defined benefit plan component and a defined contribution plan component, for police officers (and firefighters, if included) established by municipal ordinance or special act of the Legislature.

**Conforming Changes**

**Sections 3 and 9** amend ss. 175.071 and 185.06, F.S., to make conforming changes.

**Important State Interest**

**Section 13** provides that the Legislature determines that the bill fulfills an important state interest as related to public pension plans.

The bill takes effect July 1, 2015.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

To the extent this bill requires a local government to expend funds to comply with its terms, the provisions of art. VII, s. 18(a) of the Florida 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 (included in section 13 of the bill), and one of the following relevant exceptions must be met:

- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

**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:**

The overall costs or savings to local government from this bill are indeterminate, because approximately 350 plans are affected by the bill. The impact of the bill will vary depending upon the level of benefits currently offered by those plans, the amount of

revenue received from the insurance premium tax by the plan sponsor, the service accrual rate under each plan, and the terms of any collective bargaining agreement reached between the plan sponsor and the affected police or firefighter collective bargaining unit. The bill has no impact on state revenues and expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 175.021, 175.032, 175.071, 175.091, 175.162, 175.351, 185.01, 185.02, 185.06, 185.07, 185.16, and 185.35.

The bill creates an undesignated section of Florida law.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

**CS by Governmental Oversight and Accountability on January 21, 2015:**

CS/SB 172 makes several technical changes to add clarity to the language and correct several scriveners' errors.

**B. Amendments:**

None.

By Senators Bradley and Ring

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1 A bill to be entitled  
 2 An act relating to local government pension reform;  
 3 amending s. 175.021, F.S.; requiring that firefighter  
 4 pension plans meet the requirements of ch. 175, F.S.,  
 5 in order to receive certain insurance premium tax  
 6 revenues; amending s. 175.032, F.S.; revising  
 7 definitions to conform to changes made by the act and  
 8 providing new definitions; amending s. 175.071, F.S.;  
 9 conforming a cross-reference; amending s. 175.091,  
 10 F.S.; revising the method of creating and maintaining  
 11 a firefighters' pension trust fund; amending s.  
 12 175.162, F.S.; deleting a provision basing the  
 13 availability of additional benefits in a firefighter  
 14 pension plan upon state funding; revising the  
 15 calculation of monthly retirement income for a full-  
 16 time firefighter; specifying the minimum benefits that  
 17 must be maintained by certain firefighter pension  
 18 plans after a specified date; amending s. 175.351,  
 19 F.S.; exempting certain firefighter pension plans of a  
 20 municipality or special fire control district from  
 21 meeting certain minimum benefits in order to  
 22 participate in the distribution of a premium tax;  
 23 redesignating the term "pension plan" as "retirement  
 24 plan"; revising criteria governing the use of revenues  
 25 of the premium tax; authorizing a pension plan to  
 26 reduce certain excess benefits if the plan continues  
 27 to meet certain minimum benefits and standards;  
 28 providing that the use of premium tax revenues may  
 29 deviate from the requirements of ch. 175, F.S., under

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30 certain circumstances; revising the conditions for  
 31 proposing the adoption of a pension plan or an  
 32 amendment to a pension plan; requiring plan sponsors  
 33 to have a defined contribution plan component in place  
 34 by a certain date; authorizing a municipality or  
 35 special fire control district to implement certain  
 36 changes to a local law plan which are contrary to ch.  
 37 175, F.S., for a limited time, under certain  
 38 circumstances; amending s. 185.01, F.S.; requiring  
 39 that police officer pension plans meet the  
 40 requirements of ch. 185, F.S., in order to receive  
 41 certain insurance premium tax revenues; amending s.  
 42 185.02, F.S.; revising definitions to conform to  
 43 changes made by the act and providing new definitions;  
 44 revising applicability of the limitation on the amount  
 45 of overtime payments that may be used for pension  
 46 benefit calculations; amending s. 185.06, F.S.;  
 47 conforming a cross-reference; amending s. 185.07,  
 48 F.S.; revising the method of creating and maintaining  
 49 a police officers' retirement trust fund; amending s.  
 50 185.16, F.S.; deleting a provision basing the  
 51 availability of additional benefits in a police  
 52 officer pension plan upon state funding; revising the  
 53 calculation of monthly retirement income for a police  
 54 officer; specifying the minimum benefits that must be  
 55 maintained by certain police officer pension plans  
 56 after a specified date; amending s. 185.35, F.S.;  
 57 exempting certain municipal police officer pension  
 58 plans from meeting certain minimum benefits in order

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59 to participate in the distribution of a premium tax;  
 60 redesignating the term "pension plan" as "retirement  
 61 plan"; revising criteria governing the use of revenues  
 62 from the premium tax; authorizing a plan to reduce  
 63 certain excess benefits if the plan continues to meet  
 64 certain minimum benefits and minimum standards;  
 65 providing that the use of premium tax revenues may  
 66 deviate from the requirements of ch. 185, F.S., under  
 67 specified circumstances; revising the conditions for  
 68 proposing the adoption of a pension plan or amendment  
 69 to a pension plan; conforming a cross-reference;  
 70 requiring plan sponsors to have a defined contribution  
 71 plan component in place by a certain date; authorizing  
 72 a municipality to implement certain changes to a local  
 73 law plan which are contrary to ch. 185, F.S., for a  
 74 limited time; providing a declaration of important  
 75 state interest; providing an effective date.

77 Be It Enacted by the Legislature of the State of Florida:

78 Section 1. Subsection (2) of section 175.021, Florida  
 79 Statutes, is amended to read:

80 175.021 Legislative declaration.—

81 (2) This chapter hereby establishes, for all municipal and  
 82 special district pension plans existing ~~now or hereafter~~ under  
 83 this chapter, including chapter plans and local law plans,  
 84 minimum benefits and minimum standards for the operation and  
 85 funding of such plans, hereinafter referred to as firefighters'  
 86 pension trust funds, which must be met as a condition precedent  
 87

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88 to the plan or plan sponsor receiving a distribution of  
 89 insurance premium tax revenues under s. 175.121. ~~The Minimum~~  
 90 ~~benefits and minimum standards for each plan set forth in this~~  
 91 ~~chapter~~ may not be diminished by local charter, ordinance, or  
 92 resolution or by special act of the Legislature and may not, ~~nor~~  
 93 ~~may the minimum benefits or minimum standards~~ be reduced or  
 94 offset by any other local, state, or federal law that includes  
 95 ~~may include~~ firefighters in its operation, except as provided  
 96 under s. 112.65.

97 Section 2. Section 175.032, Florida Statutes, is amended to  
 98 read:

99 175.032 Definitions.—For any municipality, special fire  
 100 control district, chapter plan, local law municipality, local  
 101 law special fire control district, or local law plan under this  
 102 chapter, the term following words and phrases have the following  
 103 meanings:

104 (1) "Additional premium tax revenues" means revenues  
 105 received by a municipality or special fire control district  
 106 pursuant to s. 175.121 which exceed base premium tax revenues.

107 (2) ~~(1) (a)~~ "Average final compensation" for:

108 (a) A full-time firefighter means one-twelfth of the  
 109 average annual compensation of the 5 best years of the last 10  
 110 years of creditable service ~~before~~ prior to retirement,  
 111 termination, or death, or the career average as a full-time  
 112 firefighter since July 1, 1953, whichever is greater. A year is  
 113 ~~shall be~~ 12 consecutive months or such other consecutive period  
 114 of time as is used and consistently applied.

115 (b) ~~"Average final compensation" for~~ A volunteer  
 116 firefighter means the average salary of the 5 best years of the

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117 last 10 best contributing years before ~~prior to~~ change in status  
 118 to a permanent full-time firefighter or retirement as a  
 119 volunteer firefighter or the career average of a volunteer  
 120 firefighter, since July 1, 1953, whichever is greater.

121 (3) "Base premium tax revenues" means:

122 (a) For a local law plan in effect on October 1, 1998, the  
 123 revenues received by a municipality or special fire control  
 124 district pursuant to s. 175.121 for the 1997 calendar year.

125 (b) For a local law plan created between October 1, 1998,  
 126 and March 1, 2015, inclusive, the revenues received by a  
 127 municipality or special fire control district pursuant to s.  
 128 175.121 based upon the tax collections during the second  
 129 calendar year of participation.

130 (4)(2) "Chapter plan" means a separate defined benefit  
 131 pension plan for firefighters which incorporates by reference  
 132 the provisions of this chapter and has been adopted by the  
 133 governing body of a municipality or special district. Except as  
 134 may be specifically authorized in this chapter, the provisions  
 135 of a chapter plan may not differ from the plan provisions set  
 136 forth in ss. 175.021-175.341 and ss. 175.361-175.401. Actuarial  
 137 valuations of chapter plans shall be conducted by the division  
 138 as provided by s. 175.261(1).

139 (5)(3) "Compensation" or "salary" means, for  
 140 noncollectively bargained service earned before July 1, 2011, or  
 141 for service earned under collective bargaining agreements in  
 142 place before July 1, 2011, the fixed monthly remuneration paid a  
 143 firefighter. If remuneration is based on actual services  
 144 rendered, as in the case of a volunteer firefighter, the term  
 145 means the total cash remuneration received yearly for such

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146 services, prorated on a monthly basis. For noncollectively  
 147 bargained service earned on or after July 1, 2011, or for  
 148 service earned under collective bargaining agreements entered  
 149 into on or after July 1, 2011, the term has the same meaning  
 150 except that when calculating retirement benefits, up to 300  
 151 hours per year in overtime compensation may be included as  
 152 specified in the plan or collective bargaining agreement, but  
 153 payments for accrued unused sick or annual leave may not be  
 154 included.

155 (a) Any retirement trust fund or plan that meets the  
 156 requirements of this chapter does not, solely by virtue of this  
 157 subsection, reduce or diminish the monthly retirement income  
 158 otherwise payable to each firefighter covered by the retirement  
 159 trust fund or plan.

160 (b) The member's compensation or salary contributed as  
 161 employee-elective salary reductions or deferrals to any salary  
 162 reduction, deferred compensation, or tax-sheltered annuity  
 163 program authorized under the Internal Revenue Code shall be  
 164 deemed to be the compensation or salary the member would receive  
 165 if he or she were not participating in such program and shall be  
 166 treated as compensation for retirement purposes under this  
 167 chapter.

168 (c) For any person who first becomes a member in any plan  
 169 year beginning on or after January 1, 1996, compensation for  
 170 that plan year may not include any amounts in excess of the  
 171 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
 172 the Omnibus Budget Reconciliation Act of 1993, which limitation  
 173 of \$150,000 shall be adjusted as required by federal law for  
 174 qualified government plans and ~~shall be~~ further adjusted for

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 175 changes in the cost of living in the manner provided by Internal  
 176 Revenue Code s. 401(a)(17)(B). For any person who first became a  
 177 member before the first plan year beginning on or after January  
 178 1, 1996, the limitation on compensation may not be less than the  
 179 maximum compensation amount that was allowed to be taken into  
 180 account under the plan in effect on July 1, 1993, which  
 181 limitation shall be adjusted for changes in the cost of living  
 182 since 1989 in the manner provided by Internal Revenue Code s.  
 183 401(a)(17)(1991).

184 (6)(4) "Creditable service" or "credited service" means the  
 185 aggregate number of years of service~~7~~ and fractional parts of  
 186 years of service~~7~~ of any firefighter, omitting intervening years  
 187 and fractional parts of years when such firefighter may not have  
 188 been employed by the municipality or special fire control  
 189 district, subject to the following conditions:

190 (a) A ~~No~~ firefighter may not will receive credit for years  
 191 or fractional parts of years of service if he or she has  
 192 withdrawn his or her contributions to the fund for those years  
 193 or fractional parts of years of service, unless the firefighter  
 194 repays into the fund the amount he or she has withdrawn, plus  
 195 interest determined by the board. The member has ~~shall have~~ at  
 196 least 90 days after his or her reemployment to make repayment.

197 (b) A firefighter may voluntarily leave his or her  
 198 contributions in the fund for ~~a period of~~ 5 years after leaving  
 199 the employ of the fire department, pending the possibility of  
 200 being rehired by the same department, without losing credit for  
 201 the time he or she has participated actively as a firefighter.  
 202 If the firefighter is not reemployed as a firefighter~~7~~, with the  
 203 same department~~7~~, within 5 years, his or her contributions shall

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 204 be returned without interest.

205 (c) Credited service under this chapter shall be provided  
 206 only for service as a firefighter~~7~~, ~~as defined in subsection (8)~~,  
 207 or for military service and does not include credit for any  
 208 other type of service. A municipality ~~may~~, by local ordinance,  
 209 or a special fire control district ~~may~~, by resolution, may  
 210 provide for the purchase of credit for military service prior to  
 211 employment as well as for prior service as a firefighter for  
 212 some other employer as long as a firefighter is not entitled to  
 213 receive a benefit for such prior service ~~as a firefighter~~. For  
 214 purposes of determining credit for prior service as a  
 215 firefighter, in addition to service as a firefighter in this  
 216 state, credit may be given for federal, other state, or county  
 217 service if the prior service is recognized by the Division of  
 218 State Fire Marshal as provided in ~~under~~ chapter 633, or the  
 219 firefighter provides proof to the board of trustees that his or  
 220 her service is equivalent to the service required to meet the  
 221 definition of a firefighter under subsection (11) ~~(8)~~.

222 (d) In determining the creditable service of any  
 223 firefighter, credit for up to 5 years of the time spent in the  
 224 military service of the Armed Forces of the United States shall  
 225 be added to the years of actual service if:

226 1. The firefighter is in the active employ of an employer  
 227 immediately before ~~prior to~~ such service and leaves a position,  
 228 other than a temporary position, for the purpose of voluntary or  
 229 involuntary service in the Armed Forces of the United States.

230 2. The firefighter is entitled to reemployment under ~~the~~  
 231 ~~provisions of~~ the Uniformed Services Employment and Reemployment  
 232 Rights Act.

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233 3. The firefighter returns to his or her employment as a  
 234 firefighter of the municipality or special fire control district  
 235 within 1 year after ~~from~~ the date of release from such active  
 236 service.

237 ~~(7)(5)~~ "Deferred Retirement Option Plan" or "DROP" means a  
 238 local law plan retirement option in which a firefighter may  
 239 elect to participate. A firefighter may retire for all purposes  
 240 of the plan and defer receipt of retirement benefits into a DROP  
 241 account while continuing employment with his or her employer.  
 242 However, a firefighter who enters the DROP and who is otherwise  
 243 eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from  
 244 participation or continued participation participating, or  
 245 continuing to participate, in a supplemental plan in existence  
 246 on, or created after, March 12, 1999 ~~the effective date of this~~  
 247 ~~aet.~~

248 (8) "Defined contribution plan" means the component of a  
 249 local law plan, as provided in s. 175.351(1), to which deposits,  
 250 if any, are made to provide benefits for firefighters, or for  
 251 firefighters and police officers if both are included. Such  
 252 component is an element of a local law plan and exists in  
 253 conjunction with the defined benefit component that meets  
 254 minimum benefits and minimum standards. The retirement benefits,  
 255 if any, of the defined contribution plan shall be provided  
 256 through individual member accounts in accordance with the  
 257 applicable provisions of the Internal Revenue Code and related  
 258 regulations and are limited to the contributions, if any, made  
 259 into each member's account and the actual accumulated earnings,  
 260 net of expenses, earned on the member's account.

261 ~~(9)(6)~~ "Division" means the Division of Retirement of the

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262 Department of Management Services.

263 ~~(10)(7)~~ "Enrolled actuary" means an actuary who is enrolled  
 264 under Subtitle C of Title III of the Employee Retirement Income  
 265 Security Act of 1974 and who is a member of the Society of  
 266 Actuaries or the American Academy of Actuaries.

267 ~~(11)(a)(8)(a)~~ "Firefighter" means a person employed solely  
 268 by a constituted fire department of any municipality or special  
 269 fire control district who is certified as a firefighter as a  
 270 condition of employment in accordance with s. 633.408 and whose  
 271 duty it is to extinguish fires, to protect life, or to protect  
 272 property. The term includes all certified, supervisory, and  
 273 command personnel whose duties include, in whole or in part, the  
 274 supervision, training, guidance, and management responsibilities  
 275 of full-time firefighters, part-time firefighters, or auxiliary  
 276 firefighters but does not include part-time firefighters or  
 277 auxiliary firefighters. However, for purposes of this chapter  
 278 only, the term also includes public safety officers who are  
 279 responsible for performing both police and fire services, who  
 280 are certified as police officers or firefighters, and who are  
 281 certified by their employers to the Chief Financial Officer as  
 282 participating in this chapter before October 1, 1979. Effective  
 283 October 1, 1979, public safety officers who have not been  
 284 certified as participating in this chapter are considered police  
 285 officers for retirement purposes and are eligible to participate  
 286 in chapter 185. Any plan may provide that the fire chief has an  
 287 option to participate, ~~or not,~~ in that plan.

288 (b) "Volunteer firefighter" means any person whose name is  
 289 carried on the active membership roll of a constituted volunteer  
 290 fire department or a combination of a paid and volunteer fire

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291 department of any municipality or special fire control district  
 292 and whose duty it is to extinguish fires, to protect life, and  
 293 to protect property. Compensation for services rendered by a  
 294 volunteer firefighter ~~does shall~~ not disqualify him or her as a  
 295 volunteer. A person ~~may shall~~ not be disqualified as a volunteer  
 296 firefighter solely because he or she has other gainful  
 297 employment. Any person who volunteers assistance at a fire but  
 298 is not an active member of a department described herein is not  
 299 a volunteer firefighter within the meaning of this paragraph.

300 (12)(9) "Firefighters' Pension Trust Fund" means a trust  
 301 fund, by whatever name known, as provided under s. 175.041, for  
 302 the purpose of assisting municipalities and special fire control  
 303 districts in establishing and maintaining a retirement plan for  
 304 firefighters.

305 (13)(10) "Local law municipality" means ~~is~~ any municipality  
 306 in which ~~there exists~~ a local law plan ~~exists~~.

307 (14)(11) "Local law plan" means a retirement defined  
 308 benefit pension plan, which includes both a defined benefit plan  
 309 component and a defined contribution plan component, for  
 310 firefighters, or for firefighters and ~~or~~ police officers if both  
 311 are where included, as described in s. 175.351, established by  
 312 municipal ordinance, special district resolution, or special act  
 313 of the Legislature, which enactment sets forth all plan  
 314 provisions. Local law plan provisions may vary from the  
 315 provisions of this chapter ~~if, provided that required~~ minimum  
 316 benefits and minimum standards are met. However, any such  
 317 variance ~~must shall~~ provide a greater benefit for firefighters.  
 318 Actuarial valuations of local law plans shall be conducted by an  
 319 enrolled actuary as provided in s. 175.261(2).

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320 (15)(12) "Local law special fire control district" means ~~is~~  
 321 any special fire control district in which ~~there exists~~ a local  
 322 law plan ~~exists~~.

323 (16) "Minimum benefits" means the benefits specified in ss.  
 324 175.021-175.341 and ss. 175.361-175.401.

325 (17) "Minimum standards" means the standards specified in  
 326 ss. 175.021-175.401.

327 (18)(13) "Property insurance" means property insurance as  
 328 defined in s. 624.604 and covers real and personal property  
 329 within the corporate limits of a ~~any~~ municipality, or within the  
 330 boundaries of a ~~any~~ special fire control district, within the  
 331 state. The term "multiple peril" means a combination or package  
 332 policy that includes both property and casualty coverage for a  
 333 single premium.

334 (19)(14) "Retiree" or "retired firefighter" means a  
 335 firefighter who has entered retirement status. For the purposes  
 336 of a plan that includes a Deferred Retirement Option Plan  
 337 (DROP), a firefighter who enters the DROP ~~is shall be~~ considered  
 338 a retiree for all purposes of the plan. However, a firefighter  
 339 who enters the DROP and who is otherwise eligible to participate  
 340 ~~may shall not thereby~~ be precluded from participation or  
 341 continued participation ~~participating, or continuing to~~  
 342 ~~participate,~~ in a supplemental plan in existence on, or created  
 343 after, March 12, 1999 ~~the effective date of this act~~.

344 (20)(15) "Retirement" means a firefighter's separation from  
 345 municipal city or fire district employment as a firefighter with  
 346 immediate eligibility for ~~receipt of~~ benefits under the plan.  
 347 For purposes of a plan that includes a Deferred Retirement  
 348 Option Plan (DROP), "retirement" means the date a firefighter

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349 enters the DROP.

350 (21) "Special act plan" means a plan subject to the  
 351 provisions of this chapter which was created by an act of the  
 352 Legislature and continues to require an act of the Legislature  
 353 to alter plan benefits.

354 (22) "Special benefits" means benefits provided in a  
 355 defined contribution plan for firefighters.

356 (23)~~(16)~~ "Special fire control district" means a special  
 357 district, as defined in s. 189.012, established for the purposes  
 358 of extinguishing fires, protecting life, and protecting property  
 359 within the incorporated or unincorporated portions of a any  
 360 county or combination of counties, or within any combination of  
 361 incorporated and unincorporated portions of a any county or  
 362 combination of counties. The term does not include any dependent  
 363 or independent special district, as those terms are defined in  
 364 s. 189.012, the employees of which are members of the Florida  
 365 Retirement System pursuant to s. 121.051(1) or (2).

366 (24)~~(17)~~ "Supplemental plan" means a plan to which deposits  
 367 are made to provide special ~~extra~~ benefits for firefighters, or  
 368 for firefighters and police officers if both are ~~where~~ included  
 369 ~~under this chapter~~. Such a plan is an element of a local law  
 370 plan and exists in conjunction with a defined benefit component  
 371 ~~plan~~ that meets the minimum benefits and minimum standards ~~of~~  
 372 ~~this chapter~~. Any supplemental plan in existence on March 1,  
 373 2015, shall be deemed to be a defined contribution plan in  
 374 compliance with s. 175.351(6).

375 (25)~~(18)~~ "Supplemental plan municipality" means a any local  
 376 law municipality in which ~~there existed~~ a supplemental plan  
 377 ~~existed, of any type or nature,~~ as of December 1, 2000.

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378 Section 3. Subsection (7) of section 175.071, Florida  
 379 Statutes, is amended to read:

380 175.071 General powers and duties of board of trustees.—For  
 381 any municipality, special fire control district, chapter plan,  
 382 local law municipality, local law special fire control district,  
 383 or local law plan under this chapter:

384 (7) To assist the board in meeting its responsibilities  
 385 under this chapter, the board, if it so elects, may:

386 (a) Employ independent legal counsel at the pension fund's  
 387 expense.

388 (b) Employ an independent enrolled actuary, as defined in  
 389 s. 175.032~~(7)~~, at the pension fund's expense.

390 (c) Employ such independent professional, technical, or  
 391 other advisers as it deems necessary at the pension fund's  
 392 expense.

393  
 394 If the board chooses to use the municipality's or special  
 395 district's legal counsel or actuary, or chooses to use any of  
 396 the municipality's or special district's other professional,  
 397 technical, or other advisers, it must do so only under terms and  
 398 conditions acceptable to the board.

399 Section 4. Paragraph (d) of subsection (1) of section  
 400 175.091, Florida Statutes, is amended to read:

401 175.091 Creation and maintenance of fund.—For any  
 402 municipality, special fire control district, chapter plan, local  
 403 law municipality, local law special fire control district, or  
 404 local law plan under this chapter:

405 (1) The firefighters' pension trust fund in each  
 406 municipality and in each special fire control district shall be

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407 created and maintained in the following manner:

408 (d) By mandatory payment by the municipality or special  
409 fire control district of a sum equal to the normal cost of and  
410 the amount required to fund any actuarial deficiency shown by an  
411 actuarial valuation conducted under as provided in part VII of  
412 chapter 112 after taking into account the amounts described in  
413 paragraphs (b), (c), (e), (f), and (g) and the tax proceeds  
414 described in paragraph (a) which are used to fund defined  
415 benefit plan benefits.

416  
417 Nothing in this section shall be construed to require adjustment  
418 of member contribution rates in effect on the date this act  
419 becomes a law, including rates that exceed 5 percent of salary,  
420 provided that such rates are at least one-half of 1 percent of  
421 salary.

422 Section 5. Paragraph (a) of subsection (2) of section  
423 175.162, Florida Statutes, is amended to read:

424 175.162 Requirements for retirement.—For any municipality,  
425 special fire control district, chapter plan, local law  
426 municipality, local law special fire control district, or local  
427 law plan under this chapter, any firefighter who completes 10 or  
428 more years of creditable service as a firefighter and attains  
429 age 55, or completes 25 years of creditable service as a  
430 firefighter and attains age 52, and who for such minimum period  
431 has been a member of the firefighters' pension trust fund  
432 operating under a chapter plan or local law plan, is eligible  
433 for normal retirement benefits. Normal retirement under the plan  
434 is retirement from the service of the municipality or special  
435 fire control district on or after the normal retirement date. In

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436 such event, payment of retirement income will be governed by the  
437 following provisions of this section:

438 (2) (a) 1. The amount of monthly retirement income payable to  
439 a full-time firefighter who retires on or after his or her  
440 normal retirement date shall be an amount equal to the number of  
441 his or her years of credited service multiplied by 2.75 ~~2~~  
442 percent of his or her average final compensation as a full-time  
443 firefighter. ~~However, if current state contributions pursuant to~~  
444 ~~this chapter are not adequate to fund the additional benefits to~~  
445 ~~meet the minimum requirements in this chapter, only such~~  
446 ~~incremental increases shall be required as state moneys are~~  
447 ~~adequate to provide. Such increments shall be provided as state~~  
448 ~~moneys become available.~~

449 2. Effective July 1, 2015, a plan that is in compliance  
450 with this chapter except that the plan provides a benefit that  
451 is less than 2.75 percent of the average final compensation of a  
452 full-time firefighter for all years of credited service or  
453 provides an effective benefit that is less than 2.75 percent as  
454 a result of a maximum benefit limitation:

455 a. Must maintain, at a minimum, the percentage amount or  
456 maximum benefit limitation in effect on July 1, 2015, and is not  
457 required to increase the benefit to 2.75 percent of the average  
458 final compensation of a full-time firefighter for all years of  
459 credited service; or

460 b. If the plan changes the percentage amount or maximum  
461 benefit limitation to 2.75 percent, or more, of the average  
462 final compensation of a full-time firefighter for all years of  
463 credited service, the plan may not thereafter decrease the  
464 percentage amount or maximum benefit limitation to less than

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465 2.75 percent of the average final compensation of a full-time  
 466 firefighter for all years of credited service.

467 Section 6. Section 175.351, Florida Statutes, is amended to  
 468 read:

469 175.351 Municipalities and special fire control districts  
 470 that have having their own retirement pension plans for  
 471 firefighters. ~~For any municipality, special fire control~~  
 472 ~~district, local law municipality, local law special fire control~~  
 473 ~~district, or local law plan under this chapter,~~ In order for a  
 474 municipality or municipalities and special fire control district  
 475 that has its districts with their own retirement plan pension  
 476 plans for firefighters, or for firefighters and police officers  
 477 if both are included, to participate in the distribution of the  
 478 tax fund established under pursuant to s. 175.101, a local law  
 479 plan plans must meet the minimum benefits and minimum standards,  
 480 except as provided in the mutual consent provisions in paragraph  
 481 (1) (g) with respect to the minimum benefits not met as of  
 482 October 1, 2012 set forth in this chapter.

483 (1) If a municipality has a retirement pension plan for  
 484 firefighters, or a ~~pension plan~~ for firefighters and police  
 485 officers if both are included, which in the opinion of the  
 486 division meets the minimum benefits and minimum standards ~~set~~  
 487 ~~forth in this chapter,~~ the board of trustees of the retirement  
 488 plan plans must, ~~as approved by a majority of firefighters of~~  
 489 ~~the municipality, may:~~

490 ~~(a)~~ place the income from the premium tax in s. 175.101 in  
 491 such ~~pension~~ plan for the sole and exclusive use of its  
 492 firefighters, or for firefighters and police officers if both  
 493 are included, where it shall become an integral part of that

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494 ~~pension~~ plan and ~~shall~~ be used to fund benefits as provided  
 495 herein. Effective October 1, 2015, for noncollectively bargained  
 496 service or upon entering into a collective bargaining agreement  
 497 on or after July 1, 2015:

498 (a) The base premium tax revenues must be used to fund  
 499 minimum benefits or other retirement benefits in excess of the  
 500 minimum benefits as determined by the municipality or special  
 501 fire control district.

502 (b) Of the additional premium tax revenues received which  
 503 are in excess of the amount received for the 2012 calendar year,  
 504 50 percent must be used to fund minimum benefits or other  
 505 retirement benefits in excess of the minimum benefits as  
 506 determined by the municipality or special fire control district,  
 507 and 50 percent must be placed in a defined contribution plan to  
 508 fund special benefits.

509 (c) Additional premium tax revenues not described in  
 510 paragraph (b) must be used to fund benefits that are not  
 511 included in the minimum benefits. If the additional premium tax  
 512 revenues subject to this paragraph exceed the full annual cost  
 513 of benefits provided through the plan which are in excess of the  
 514 minimum benefits, any amount in excess of the full annual cost  
 515 must be used as provided in paragraph (b).

516 (d) Of any accumulations of additional premium tax revenues  
 517 which have not been allocated to fund benefits in excess of the  
 518 minimum benefits, 50 percent of the amount of the accumulations  
 519 must be used to fund special benefits, and 50 percent must be  
 520 applied to fund any unfunded actuarial liabilities of the plan;  
 521 provided that any amount of accumulations in excess of the  
 522 amount required to fund the unfunded actuarial liabilities must

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523 ~~be used to fund special benefits to pay extra benefits to the~~  
 524 ~~firefighters included in that pension plan; or~~

525 ~~(b) Place the income from the premium tax in s. 175.101 in~~  
 526 ~~a separate supplemental plan to pay extra benefits to~~  
 527 ~~firefighters, or to firefighters and police officers if~~  
 528 ~~included, participating in such separate supplemental plan.~~

529 (e) For a plan created after March 1, 2015, 50 percent of  
 530 the insurance premium tax revenues must be used to fund defined  
 531 benefit plan component benefits, with the remainder used to fund  
 532 defined contribution plan component benefits.

533 (f) If a plan offers benefits in excess of the minimum  
 534 benefits, such benefits, excluding supplemental plan benefits in  
 535 effect as of September 30, 2014, may be reduced if the plan  
 536 continues to meet minimum benefits and minimum standards. The  
 537 amount of insurance premium tax revenues previously used to fund  
 538 benefits in excess of minimum benefits, excluding the amount of  
 539 any additional premium tax revenues distributed to a  
 540 supplemental plan for the 2012 calendar year, before the  
 541 reduction must be used as provided in paragraph (b). However,  
 542 benefits in excess of minimum benefits may not be reduced if a  
 543 plan does not meet the minimum percentage amount of 2.75 percent  
 544 of the average final compensation of a full-time firefighter, as  
 545 required by s. 175.162(2)(a)1., or provides an effective benefit  
 546 that is below 2.75 percent as a result of a maximum benefit  
 547 limitation as described in s. 175.162(2)(a)2.

548 (g) Notwithstanding paragraphs (a)-(f), the use of premium  
 549 tax revenues, including any accumulations of additional premium  
 550 tax revenues which have not been allocated to fund benefits in  
 551 excess of minimum benefits, may deviate from the provisions of

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552 ~~this subsection by mutual consent of the members' collective~~  
 553 ~~bargaining representative or, if there is no representative, by~~  
 554 ~~a majority of the firefighter members of the fund, and by~~  
 555 ~~consent of the municipality or special fire control district,~~  
 556 ~~provided that the plan continues to meet minimum benefits and~~  
 557 ~~minimum standards; however, a plan that operates pursuant to~~  
 558 ~~this paragraph which does not meet minimum benefits as of~~  
 559 ~~October 1, 2012, may continue to provide the benefits that do~~  
 560 ~~not meet the minimum benefits at the same level as was provided~~  
 561 ~~as of October 1, 2012, and all other benefit levels must~~  
 562 ~~continue to meet the minimum benefits. Such mutually agreed~~  
 563 ~~deviation must continue until modified or revoked by subsequent~~  
 564 ~~mutual consent of the members' collective bargaining~~  
 565 ~~representative or, if none, by a majority of the firefighter~~  
 566 ~~members of the fund, and the municipality or special fire~~  
 567 ~~control district. An existing arrangement for the use of premium~~  
 568 ~~tax revenues contained within a special act plan or a plan~~  
 569 ~~within a supplemental plan municipality is considered, as of~~  
 570 ~~July 1, 2015, to be a deviation for which mutual consent has~~  
 571 ~~been granted.~~

572 (2) The premium tax provided by this chapter must ~~shall in~~  
 573 ~~all cases~~ be used in its entirety to provide retirement extra  
 574 benefits to firefighters, or to firefighters and police officers  
 575 if both are included. ~~However, local law plans in effect on~~  
 576 ~~October 1, 1998, must comply with the minimum benefit provisions~~  
 577 ~~of this chapter only to the extent that additional premium tax~~  
 578 ~~revenues become available to incrementally fund the cost of such~~  
 579 ~~compliance as provided in s. 175.162(2)(a). If a plan is in~~  
 580 ~~compliance with such minimum benefit provisions, as subsequent~~

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581 ~~additional premium tax revenues become available, they must be~~  
 582 ~~used to provide extra benefits.~~ Local law plans created by  
 583 special act before May 27, 1939, are deemed to comply with this  
 584 chapter. ~~For the purpose of this chapter, the term:~~

585 ~~(a) "Additional premium tax revenues" means revenues~~  
 586 ~~received by a municipality or special fire control district~~  
 587 ~~pursuant to s. 175.121 which exceed that amount received for~~  
 588 ~~calendar year 1997.~~

589 ~~(b) "Extra benefits" means benefits in addition to or~~  
 590 ~~greater than those provided to general employees of the~~  
 591 ~~municipality and in addition to those in existence for~~  
 592 ~~firefighters on March 12, 1999.~~

593 (3) A retirement plan or amendment to a retirement plan may  
 594 not be proposed for adoption unless the proposed plan or  
 595 amendment contains an actuarial estimate of the costs involved.  
 596 Such proposed plan or proposed plan change may not be adopted  
 597 without the approval of the municipality, special fire control  
 598 district, or, where required ~~permitted~~, the Legislature. Copies  
 599 of the proposed plan or proposed plan change and the actuarial  
 600 impact statement of the proposed plan or proposed plan change  
 601 shall be furnished to the division before the last public  
 602 hearing on the proposal is held thereon. Such statement must  
 603 also indicate whether the proposed plan or proposed plan change  
 604 is in compliance with s. 14, Art. X of the State Constitution  
 605 and those provisions of part VII of chapter 112 which are not  
 606 expressly provided in this chapter. Notwithstanding any other  
 607 provision, only those local law plans created by special act of  
 608 legislation before May 27, 1939, are deemed to meet ~~the~~ minimum  
 609 benefits and minimum standards ~~only in this chapter~~.

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610 (4) Notwithstanding any other provision, with respect to  
 611 any supplemental plan municipality:

612 (a) A local law plan and a supplemental plan may continue  
 613 to use their definition of compensation or salary in existence  
 614 on March 12, 1999.

615 (b) Section 175.061(1)(b) does not apply, and a local law  
 616 plan and a supplemental plan shall continue to be administered  
 617 by a board or boards of trustees numbered, constituted, and  
 618 selected as the board or boards were numbered, constituted, and  
 619 selected on December 1, 2000.

620 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~  
 621 ~~have been made.~~

622 (5) The retirement plan setting forth the benefits and the  
 623 trust agreement, if any, covering the duties and  
 624 responsibilities of the trustees and the regulations of the  
 625 investment of funds must be in writing, and copies made  
 626 available to the participants and to the general public.

627 (6) In addition to the defined benefit component of the  
 628 local law plan, each plan sponsor must have a defined  
 629 contribution plan component within the local law plan by October  
 630 1, 2015, for noncollectively bargained service, upon entering  
 631 into a collective bargaining agreement on or after July 1, 2015,  
 632 or upon the creation date of a new participating plan. Depending  
 633 upon the application of subsection (1), a defined contribution  
 634 component may or may not receive any funding.

635 (7) Notwithstanding any other provision of this chapter, a  
 636 municipality or special fire control district that has  
 637 implemented or proposed changes to a local law plan based on the  
 638 municipality's or district's reliance on an interpretation of

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639 this chapter by the Department of Management Services on or  
 640 after August 14, 2012, and before March 4, 2015, may continue  
 641 the implemented changes or continue to implement proposed  
 642 changes. Such reliance must be evidenced by a written collective  
 643 bargaining proposal or agreement, or formal correspondence  
 644 between the municipality or district and the Department of  
 645 Management Services which describes the specific changes to the  
 646 local law plan, with the initial proposal, agreement, or  
 647 correspondence from the municipality or district dated before  
 648 March 4, 2015. Changes to the local law plan which are otherwise  
 649 contrary to minimum benefits and minimum standards may continue  
 650 in effect until the earlier of October 1, 2018, or the effective  
 651 date of a collective bargaining agreement that is contrary to  
 652 the changes to the local law plan.

653 Section 7. Subsection (2) of section 185.01, Florida  
 654 Statutes, is amended to read:

655 185.01 Legislative declaration.—

656 (2) This chapter hereby establishes, for all municipal  
 657 pension plans ~~now or hereinafter~~ provided for under this  
 658 chapter, including chapter plans and local law plans, minimum  
 659 benefits and minimum standards for the operation and funding of  
 660 such plans, hereinafter referred to as municipal police  
 661 officers' retirement trust funds, which must be met as  
 662 conditions precedent to the plans or plan sponsors receiving a  
 663 distribution of insurance premium tax revenues under s. 185.10.  
 664 ~~The Minimum benefits and minimum standards for each plan set~~  
 665 ~~forth in this chapter~~ may not be diminished by local ordinance  
 666 or by special act of the Legislature and may not, ~~nor may the~~  
 667 ~~minimum benefits or minimum standards~~ be reduced or offset by

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668 any other local, state, or federal plan that includes ~~may~~  
 669 ~~include~~ police officers in its operation, except as provided  
 670 under s. 112.65.

671 Section 8. Section 185.02, Florida Statutes, is amended to  
 672 read:

673 185.02 Definitions.—For any municipality, chapter plan,  
 674 local law municipality, or local law plan under this chapter,  
 675 the ~~term following words and phrases as used in this chapter~~  
 676 ~~shall have the following meanings, unless a different meaning is~~  
 677 ~~plainly required by the context:~~

678 (1) "Additional premium tax revenues" means revenues  
 679 received by a municipality pursuant to s. 185.10 which exceed  
 680 base premium tax revenues.

681 (2) ~~(1)~~ "Average final compensation" means one-twelfth of  
 682 the average annual compensation of the 5 best years of the last  
 683 10 years of creditable service ~~before~~ prior to retirement,  
 684 termination, or death.

685 (3) "Base premium tax revenues" means:

686 (a) For a local law plan in effect on October 1, 1998, the  
 687 revenues received by a municipality pursuant to s. 185.10 for  
 688 the 1997 calendar year.

689 (b) For a local law plan created between October 1, 1998,  
 690 and March 1, 2015, inclusive, the revenues received by a  
 691 municipality pursuant to s. 185.10 based upon the tax  
 692 collections during the second calendar year of participation.

693 (4) ~~(2)~~ "Casualty insurance" means automobile public  
 694 liability and property damage insurance to be applied at the  
 695 place of residence of the owner, or if the subject is a  
 696 commercial vehicle, to be applied at the place of business of

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697 the owner; automobile collision insurance; fidelity bonds;  
698 burglary and theft insurance; and plate glass insurance. The  
699 term "multiple peril" means a combination or package policy that  
700 includes both property coverage and casualty coverage for a  
701 single premium.

702 ~~(5)(3)~~ "Chapter plan" means a separate defined benefit  
703 pension plan for police officers which incorporates by reference  
704 the provisions of this chapter and has been adopted by the  
705 governing body of a municipality as provided in s. 185.08.  
706 Except as ~~may be~~ specifically authorized in this chapter, the  
707 provisions of a chapter plan may not differ from the plan  
708 provisions set forth in ss. 185.01-185.341 and ss. 185.37-  
709 185.39. Actuarial valuations of chapter plans shall be conducted  
710 by the division as provided by s. 185.221(1)(b).

711 ~~(6)(4)~~ "Compensation" or "salary" means, for  
712 noncollectively bargained service earned before July 1, 2011, or  
713 for service earned under collective bargaining agreements in  
714 place before July 1, 2011, the total cash remuneration including  
715 "overtime" paid by the primary employer to a police officer for  
716 services rendered, but not including any payments for extra duty  
717 or special detail work performed on behalf of a second party  
718 employer. Overtime may be limited before July 1, 2011, in a  
719 local law plan by the plan provisions ~~A local law plan may limit~~  
720 ~~the amount of overtime payments which can be used for retirement~~  
721 ~~benefit calculation purposes; however, such overtime limit may~~  
722 ~~not be less than 300 hours per officer per calendar year.~~ For  
723 noncollectively bargained service earned on or after July 1,  
724 2011, or for service earned under collective bargaining  
725 agreements entered into on or after July 1, 2011, the term has

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726 the same meaning except that when calculating retirement  
727 benefits, up to 300 hours per year in overtime compensation may  
728 be included as specified in the plan or collective bargaining  
729 agreement, but payments for accrued unused sick or annual leave  
730 may not be included.

731 (a) Any retirement trust fund or plan that meets the  
732 requirements of this chapter does not, solely by virtue of this  
733 subsection, reduce or diminish the monthly retirement income  
734 otherwise payable to each police officer covered by the  
735 retirement trust fund or plan.

736 (b) The member's compensation or salary contributed as  
737 employee-elective salary reductions or deferrals to any salary  
738 reduction, deferred compensation, or tax-sheltered annuity  
739 program authorized under the Internal Revenue Code shall be  
740 deemed to be the compensation or salary the member would receive  
741 if he or she were not participating in such program and shall be  
742 treated as compensation for retirement purposes under this  
743 chapter.

744 (c) For any person who first becomes a member in any plan  
745 year beginning on or after January 1, 1996, compensation for  
746 that plan year may not include any amounts in excess of the  
747 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
748 the Omnibus Budget Reconciliation Act of 1993, which limitation  
749 of \$150,000 shall be adjusted as required by federal law for  
750 qualified government plans and ~~shall be~~ further adjusted for  
751 changes in the cost of living in the manner provided by Internal  
752 Revenue Code s. 401(a)(17)(B). For any person who first became a  
753 member before the first plan year beginning on or after January  
754 1, 1996, the limitation on compensation may not be less than the

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755 maximum compensation amount that was allowed to be taken into  
 756 account under the plan ~~as~~ in effect on July 1, 1993, which  
 757 limitation shall be adjusted for changes in the cost of living  
 758 since 1989 in the manner provided by Internal Revenue Code s.  
 759 401(a)(17)(1991).

760 ~~(7)(5)~~ "Creditable service" or "credited service" means the  
 761 aggregate number of years of service and fractional parts of  
 762 years of service of any police officer, omitting intervening  
 763 years and fractional parts of years when such police officer may  
 764 not have been employed by the municipality subject to the  
 765 following conditions:

766 (a) ~~A~~ No police officer may not ~~will~~ receive credit for  
 767 years or fractional parts of years of service if he or she has  
 768 withdrawn his or her contributions to the fund for those years  
 769 or fractional parts of years of service, unless the police  
 770 officer repays into the fund the amount he or she has withdrawn,  
 771 plus interest as determined by the board. The member has ~~shall~~  
 772 ~~have~~ at least 90 days after his or her reemployment to make  
 773 repayment.

774 (b) A police officer may voluntarily leave his or her  
 775 contributions in the fund for ~~a period of~~ 5 years after leaving  
 776 the employ of the police department, pending the possibility of  
 777 his or her being rehired by the same department, without losing  
 778 credit for the time he or she has participated actively as a  
 779 police officer. If he or she is not reemployed as a police  
 780 officer with the same department within 5 years, his or her  
 781 contributions shall be returned ~~to him or her~~ without interest.

782 (c) Credited service under this chapter shall be provided  
 783 only for service as a police officer, ~~as defined in subsection~~

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784 ~~(11)~~, or for military service and may not include credit for any  
 785 other type of service. A municipality ~~may~~, by local ordinance,  
 786 may provide for the purchase of credit for military service  
 787 occurring before employment as well as prior service as a police  
 788 officer for some other employer as long as the police officer is  
 789 not entitled to receive a benefit for such ~~other~~ prior service  
 790 ~~as a police officer~~. For purposes of determining credit for  
 791 prior service, in addition to service as a police officer in  
 792 this state, credit may be given for federal, other state, or  
 793 county service as long as such service is recognized by the  
 794 Criminal Justice Standards and Training Commission within the  
 795 Department of Law Enforcement as provided in ~~under~~ chapter 943  
 796 or the police officer provides proof to the board of trustees  
 797 that such service is equivalent to the service required to meet  
 798 the definition of a police officer under subsection (16) ~~(11)~~.

799 (d) In determining the creditable service of a any police  
 800 officer, credit for up to 5 years of the time spent in the  
 801 military service of the Armed Forces of the United States shall  
 802 be added to the years of actual service, ~~if~~:

803 1. The police officer is in the active employ of the  
 804 municipality before ~~prior to~~ such service and leaves a position,  
 805 other than a temporary position, for the purpose of voluntary or  
 806 involuntary service in the Armed Forces of the United States.

807 2. The police officer is entitled to reemployment under ~~the~~  
 808 ~~provisions of~~ the Uniformed Services Employment and Reemployment  
 809 Rights Act.

810 3. The police officer returns to his or her employment as a  
 811 police officer of the municipality within 1 year after ~~from~~ the  
 812 date of his or her release from such active service.

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813 ~~(8)(6)~~ "Deferred Retirement Option Plan" or "DROP" means a  
 814 local law plan retirement option in which a police officer may  
 815 elect to participate. A police officer may retire for all  
 816 purposes of the plan and defer receipt of retirement benefits  
 817 into a DROP account while continuing employment with his or her  
 818 employer. However, a police officer who enters the DROP and who  
 819 is otherwise eligible to participate ~~may shall not thereby~~ be  
 820 precluded from participation or continued participation  
 821 ~~participating, or continuing to participate,~~ in a supplemental  
 822 plan in existence on, or created after, March 12, 1999 the  
 823 effective date of this act.

824 (9) "Defined contribution plan" means the component of a  
 825 local law plan, as provided in s. 185.35(1), to which deposits,  
 826 if any, are made to provide benefits for police officers, or for  
 827 police officers and firefighters if both are included. Such  
 828 component is an element of a local law plan and exists in  
 829 conjunction with the defined benefit component that meets  
 830 minimum benefits and minimum standards. The retirement benefits,  
 831 if any, of the defined contribution plan shall be provided  
 832 through individual member accounts in accordance with the  
 833 applicable provisions of the Internal Revenue Code and related  
 834 regulations and are limited to the contributions, if any, made  
 835 into each member's account and the actual accumulated earnings,  
 836 net of expenses, earned on the member's account.

837 ~~(10)(7)~~ "Division" means the Division of Retirement of the  
 838 Department of Management Services.

839 ~~(11)(8)~~ "Enrolled actuary" means an actuary who is enrolled  
 840 under Subtitle C of Title III of the Employee Retirement Income  
 841 Security Act of 1974 and who is a member of the Society of

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842 Actuaries or the American Academy of Actuaries.

843 ~~(12)(9)~~ "Local law municipality" ~~means is~~ any municipality  
 844 in which ~~there exists~~ a local law exists.

845 ~~(13)(10)~~ "Local law plan" means a retirement defined  
 846 ~~benefit pension plan, that includes both a defined benefit plan~~  
 847 component and a defined contribution plan component, for police  
 848 officers, or for police officers and firefighters if both are,  
 849 ~~where~~ included, as described in s. 185.35, established by  
 850 municipal ordinance or special act of the Legislature, which  
 851 ~~enactment~~ sets forth all plan provisions. Local law plan  
 852 provisions may vary from the provisions of this chapter if,  
 853 ~~provided that required~~ minimum benefits and minimum standards  
 854 are met. However, any such variance must shall provide a greater  
 855 benefit for police officers. Actuarial valuations of local law  
 856 plans shall be conducted by an enrolled actuary as provided in  
 857 s. 185.221(2) (b).

858 (14) "Minimum benefits" means the benefits specified in ss.  
 859 185.01-185.341 and ss. 185.37-185.50.

860 (15) "Minimum standards" means the standards specified in  
 861 ss. 185.01-185.50.

862 ~~(16)(11)~~ "Police officer" means any person who is elected,  
 863 appointed, or employed full time by a any municipality, who is  
 864 certified or required to be certified as a law enforcement  
 865 officer in compliance with s. 943.1395, who is vested with  
 866 authority to bear arms and make arrests, and whose primary  
 867 responsibility is the prevention and detection of crime or the  
 868 enforcement of the penal, criminal, traffic, or highway laws of  
 869 the state. The term ~~This definition~~ includes all certified  
 870 supervisory and command personnel whose duties include, in whole

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871 or in part, the supervision, training, guidance, and management  
 872 responsibilities of full-time law enforcement officers, part-  
 873 time law enforcement officers, or auxiliary law enforcement  
 874 officers, but does not include part-time law enforcement  
 875 officers or auxiliary law enforcement officers as those terms  
 876 ~~the same~~ are defined in s. 943.10(6) and (8), respectively. For  
 877 the purposes of this chapter only, the term also includes  
 878 ~~"police officer"~~ also shall include a public safety officer who  
 879 is responsible for performing both police and fire services. Any  
 880 plan may provide that the police chief shall have an option to  
 881 participate, ~~or not,~~ in that plan.

882 (17)(12) "Police Officers' Retirement Trust Fund" means a  
 883 trust fund, by whatever name known, as provided under s. 185.03  
 884 for the purpose of assisting municipalities in establishing and  
 885 maintaining a retirement plan for police officers.

886 (18)(13) "Retiree" or "retired police officer" means a  
 887 police officer who has entered retirement status. For the  
 888 purposes of a plan that includes a Deferred Retirement Option  
 889 Plan (DROP), a police officer who enters the DROP is ~~shall be~~  
 890 considered a retiree for all purposes of the plan. However, a  
 891 police officer who enters the DROP and who is otherwise eligible  
 892 to participate may ~~shall not thereby~~ be precluded from  
 893 participation or continued participation participating, or  
 894 ~~continuing to participate,~~ in a supplemental plan in existence  
 895 on, or created after, March 12, 1999 ~~the effective date of this~~  
 896 ~~act.~~

897 (19)(14) "Retirement" means a police officer's separation  
 898 from municipal city employment as a police officer with  
 899 immediate eligibility for ~~receipt of~~ benefits under the plan.

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900 For purposes of a plan that includes a Deferred Retirement  
 901 Option Plan (DROP), "retirement" means the date a police officer  
 902 enters the DROP.

903 (20) "Special act plan" means a plan subject to the  
 904 provisions of this chapter which was created by an act of the  
 905 Legislature and continues to require an act of the Legislature  
 906 to alter plan benefits.

907 (21) "Special benefits" means benefits provided in a  
 908 defined contribution plan for police officers.

909 (22)(15) "Supplemental plan" means a plan to which deposits  
 910 of the premium tax moneys as provided in s. 185.08 are made to  
 911 provide special ~~extra~~ benefits to police officers, or police  
 912 officers and firefighters if both are ~~where~~ included, ~~under this~~  
 913 ~~chapter.~~ Such a plan is an element of a local law plan and  
 914 exists in conjunction with a defined benefit component plan that  
 915 meets ~~the~~ minimum benefits and minimum standards ~~of this~~  
 916 ~~chapter.~~ Any supplemental plan in existence on March 1, 2015,  
 917 shall be deemed to be a defined contribution plan in compliance  
 918 with s. 185.35(6).

919 (23)(16) "Supplemental plan municipality" means a ~~any~~ local  
 920 law municipality in which ~~there existed~~ a supplemental plan  
 921 existed as of December 1, 2000.

922 Section 9. Subsection (6) of section 185.06, Florida  
 923 Statutes, is amended to read:

924 185.06 General powers and duties of board of trustees.—For  
 925 any municipality, chapter plan, local law municipality, or local  
 926 law plan under this chapter:

927 (6) To assist the board in meeting its responsibilities  
 928 under this chapter, the board, if it so elects, may:

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929 (a) Employ independent legal counsel at the pension fund's  
930 expense.

931 (b) Employ an independent enrolled actuary, as defined in  
932 s. 185.02~~(4)~~, at the pension fund's expense.

933 (c) Employ such independent professional, technical, or  
934 other advisers as it deems necessary at the pension fund's  
935 expense.

936

937 If the board chooses to use the municipality's or special  
938 district's legal counsel or actuary, or chooses to use any of  
939 the municipality's other professional, technical, or other  
940 advisers, it must do so only under terms and conditions  
941 acceptable to the board.

942 Section 10. Paragraph (d) of subsection (1) of section  
943 185.07, Florida Statutes, is amended to read:

944 185.07 Creation and maintenance of fund.—For any  
945 municipality, chapter plan, local law municipality, or local law  
946 plan under this chapter:

947 (1) The municipal police officers' retirement trust fund in  
948 each municipality described in s. 185.03 shall be created and  
949 maintained in the following manner:

950 (d) By payment by the municipality or other sources of a  
951 sum equal to the normal cost and the amount required to fund any  
952 actuarial deficiency shown by an actuarial valuation conducted  
953 under as provided in part VII of chapter 112 after taking into  
954 account the amounts described in paragraphs (b), (c), (e), (f),  
955 and (g) and the tax proceeds described in paragraph (a) which  
956 are used to fund defined benefit plan benefits.

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958 Nothing in this section shall be construed to require adjustment  
959 of member contribution rates in effect on the date this act  
960 becomes a law, including rates that exceed 5 percent of salary,  
961 provided that such rates are at least one-half of 1 percent of  
962 salary.

963 Section 11. Subsection (2) of section 185.16, Florida  
964 Statutes, is amended to read:

965 185.16 Requirements for retirement.—For any municipality,  
966 chapter plan, local law municipality, or local law plan under  
967 this chapter, any police officer who completes 10 or more years  
968 of creditable service as a police officer and attains age 55, or  
969 completes 25 years of creditable service as a police officer and  
970 attains age 52, and for such period has been a member of the  
971 retirement fund is eligible for normal retirement benefits.  
972 Normal retirement under the plan is retirement from the service  
973 of the city on or after the normal retirement date. In such  
974 event, for chapter plans and local law plans, payment of  
975 retirement income will be governed by the following provisions  
976 of this section:

977 (2) (a) The amount of the monthly retirement income payable  
978 to a police officer who retires on or after his or her normal  
979 retirement date shall be an amount equal to the number of the  
980 police officer's years of credited service multiplied by 2.75 ~~2~~  
981 percent of his or her average final compensation. ~~However, if~~  
982 ~~current state contributions pursuant to this chapter are not~~  
983 ~~adequate to fund the additional benefits to meet the minimum~~  
984 ~~requirements in this chapter, only increment increases shall be~~  
985 ~~required as state moneys are adequate to provide. Such~~  
986 ~~increments shall be provided as state moneys become available.~~

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987 (b) Effective July 1, 2015, a plan that is in compliance  
 988 with this chapter except that the plan provides a benefit that  
 989 is less than 2.75 percent of the average final compensation of a  
 990 police officer for all years of credited service or provides an  
 991 effective benefit that is less than 2.75 percent as a result of  
 992 a maximum benefit limitation:

993 1. Must maintain, at a minimum, the percentage amount or  
 994 maximum benefit limitation in effect on July 1, 2015, and is not  
 995 required to increase the benefit to 2.75 percent of the average  
 996 final compensation of a police officer for all years of credited  
 997 service; or

998 2. If the plan changes the percentage amount or maximum  
 999 benefit limitation to 2.75 percent, or more, of the average  
 1000 final compensation of a police officer for all years of credited  
 1001 service, the plan may not thereafter decrease the percentage  
 1002 amount or the maximum benefit limitation to less than 2.75  
 1003 percent of the average final compensation of a police officer  
 1004 for all years of credited service.

1005 Section 12. Section 185.35, Florida Statutes, is amended to  
 1006 read:

1007 185.35 Municipalities ~~that have~~ having their own retirement  
 1008 pension plans for police officers. ~~For any municipality, chapter~~  
 1009 ~~plan, local law municipality, or local law plan under this~~  
 1010 ~~chapter,~~ In order for a municipality that has its ~~municipalities~~  
 1011 ~~with their own retirement plan pension plans~~ for police  
 1012 officers, or for police officers and firefighters if both are  
 1013 included, to participate in the distribution of the tax fund  
 1014 established under pursuant to s. 185.08, a local law plan plans  
 1015 must meet ~~the~~ minimum benefits and minimum standards, except as

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1016 provided in the mutual consent provisions in paragraph (1)(g)  
 1017 with respect to the minimum benefits not met as of October 1,  
 1018 2012. ~~set forth in this chapter.~~

1019 (1) If a municipality has a retirement pension plan for  
 1020 police officers, or for police officers and firefighters if both  
 1021 are included, which, in the opinion of the division, meets ~~the~~  
 1022 minimum benefits and minimum standards ~~set forth in this~~  
 1023 ~~chapter,~~ the board of trustees of the retirement pension plan  
 1024 must, as approved by a majority of police officers of the  
 1025 municipality, may:

1026 ~~(a)~~ place the income from the premium tax in s. 185.08 in  
 1027 such ~~pension~~ plan for the sole and exclusive use of its police  
 1028 officers, or its police officers and firefighters if both are  
 1029 included, where it shall become an integral part of that ~~pension~~  
 1030 plan and shall be used to fund benefits as provided herein.  
 1031 Effective October 1, 2015, for noncollectively bargained service  
 1032 or upon entering into a collective bargaining agreement on or  
 1033 after July 1, 2015:

1034 (a) The base premium tax revenues must be used to fund  
 1035 minimum benefits or other retirement benefits in excess of the  
 1036 minimum benefits as determined by the municipality.

1037 (b) Of the additional premium tax revenues received which  
 1038 are in excess of the amount received for the 2012 calendar year,  
 1039 50 percent must be used to fund minimum benefits or other  
 1040 retirement benefits in excess of the minimum benefits as  
 1041 determined by the municipality, and 50 percent must be placed in  
 1042 a defined contribution plan to fund special benefits.

1043 (c) Additional premium tax revenues not described in  
 1044 paragraph (b) must be used to fund benefits that are not

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1045 included in the minimum benefits. If the additional premium tax  
 1046 revenues subject to this paragraph exceed the full annual cost  
 1047 of benefits provided through the plan which are in excess of the  
 1048 minimum benefits, any amount in excess of the full annual cost  
 1049 must be used as provided in paragraph (b).

1050 (d) Of any accumulations of additional premium tax revenues  
 1051 which have not been allocated to fund benefits in excess of the  
 1052 minimum benefits, 50 percent of the amount of the accumulations  
 1053 must be used to fund special benefits and 50 percent must be  
 1054 applied to fund any unfunded actuarial liabilities of the plan;  
 1055 provided that any amount of accumulations in excess of the  
 1056 amount required to fund the unfunded actuarial liabilities must  
 1057 be used to fund special benefits pay extra benefits to the  
 1058 police officers included in that pension plan; or

1059 (b) May place the income from the premium tax in s. 185.08  
 1060 in a separate supplemental plan to pay extra benefits to the  
 1061 police officers, or police officers and firefighters if  
 1062 included, participating in such separate supplemental plan.

1063 (e) For a plan created after March 1, 2015, 50 percent of  
 1064 the insurance premium tax revenues must be used to fund defined  
 1065 benefit plan component benefits, with the remainder used to fund  
 1066 defined contribution plan component benefits.

1067 (f) If a plan offers benefits in excess of the minimum  
 1068 benefits, such benefits, excluding supplemental plan benefits in  
 1069 effect as of September 30, 2014, may be reduced if the plan  
 1070 continues to meet minimum benefits and the minimum standards.  
 1071 The amount of insurance premium tax revenues previously used to  
 1072 fund benefits in excess of the minimum benefits, excluding the  
 1073 amount of any additional premium tax revenues distributed to a

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1074 supplemental plan for the 2012 calendar year, before the  
 1075 reduction must be used as provided in paragraph (b). However,  
 1076 benefits in excess of the minimum benefits may not be reduced if  
 1077 a plan does not meet the minimum percentage amount of 2.75  
 1078 percent of the average final compensation of a police officer or  
 1079 provides an effective benefit that is less than 2.75 percent as  
 1080 a result of a maximum benefit limitation, as described in s.  
 1081 185.16(2)(b).

1082 (g) Notwithstanding paragraphs (a)-(f), the use of premium  
 1083 tax revenues, including any accumulations of additional premium  
 1084 tax revenues which have not been allocated to fund benefits in  
 1085 excess of the minimum benefits, may deviate from the provisions  
 1086 of this subsection by mutual consent of the members' collective  
 1087 bargaining representative or, if none, by a majority of the  
 1088 police officer members of the fund, and by consent of the  
 1089 municipality, provided that the plan continues to meet minimum  
 1090 benefits and minimum standards; however, a plan that operates  
 1091 pursuant to this paragraph which does not meet the minimum  
 1092 benefits as of October 1, 2012, may continue to provide the  
 1093 benefits that do not meet the minimum benefits at the same level  
 1094 as was provided as of October 1, 2012, and all other benefit  
 1095 levels must continue to meet the minimum benefits. Such mutually  
 1096 agreed deviation must continue until modified or revoked by  
 1097 subsequent mutual consent of the members' collective bargaining  
 1098 representative or, if none, by a majority of the police officer  
 1099 members of the fund, and the municipality. An existing  
 1100 arrangement for the use of premium tax revenues contained within  
 1101 a special act plan or a plan within a supplemental plan  
 1102 municipality is considered, as of July 1, 2015, to be a



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1103 deviation for which mutual consent has been granted.

1104 (2) The premium tax provided by this chapter ~~must shall in~~  
 1105 ~~all cases~~ be used in its entirety to provide retirement extra  
 1106 ~~benefits to police officers, or to police officers and~~  
 1107 ~~firefighters if both are included. However, local law plans in~~  
 1108 ~~effect on October 1, 1998, must comply with the minimum benefit~~  
 1109 ~~provisions of this chapter only to the extent that additional~~  
 1110 ~~premium tax revenues become available to incrementally fund the~~  
 1111 ~~cost of such compliance as provided in s. 185.16(2). If a plan~~  
 1112 ~~is in compliance with such minimum benefit provisions, as~~  
 1113 ~~subsequent additional tax revenues become available, they shall~~  
 1114 ~~be used to provide extra benefits. Local law plans created by~~  
 1115 ~~special act before May 27, 1939, shall be deemed to comply with~~  
 1116 ~~this chapter. For the purpose of this chapter, the term:~~

1117 (a) "Additional premium tax revenues" means revenues  
 1118 received by a municipality pursuant to s. 185.10 which exceed  
 1119 the amount received for calendar year 1997.

1120 (b) "Extra benefits" means benefits in addition to or  
 1121 greater than those provided to general employees of the  
 1122 municipality and in addition to those in existence for police  
 1123 officers on March 12, 1999.

1124 (3) A retirement plan or amendment to a retirement plan may  
 1125 not be proposed for adoption unless the proposed plan or  
 1126 amendment contains an actuarial estimate of the costs involved.  
 1127 Such proposed plan or proposed plan change may not be adopted  
 1128 without the approval of the municipality or, where required  
 1129 ~~permitted~~, the Legislature. Copies of the proposed plan or  
 1130 proposed plan change and the actuarial impact statement of the  
 1131 proposed plan or proposed plan change shall be furnished to the

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1132 division before the last public hearing on the proposal is held  
 1133 ~~thereon~~. Such statement must also indicate whether the proposed  
 1134 plan or proposed plan change is in compliance with s. 14, Art. X  
 1135 of the State Constitution and those provisions of part VII of  
 1136 chapter 112 which are not expressly provided in this chapter.  
 1137 Notwithstanding any other provision, only those local law plans  
 1138 created by special act of legislation before May 27, 1939, are  
 1139 deemed to meet the minimum benefits and minimum standards only  
 1140 in this chapter.

1141 (4) Notwithstanding any other provision, with respect to  
 1142 any supplemental plan municipality:

1143 (a) Section 185.02(6)(a) ~~185.02(4)(a)~~ does not apply, and a  
 1144 local law plan and a supplemental plan may continue to use their  
 1145 definition of compensation or salary in existence on March 12,  
 1146 1999.

1147 (b) A local law plan and a supplemental plan must continue  
 1148 to be administered by a board or boards of trustees numbered,  
 1149 constituted, and selected as the board or boards were numbered,  
 1150 constituted, and selected on December 1, 2000.

1151 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~  
 1152 ~~have been made.~~

1153 (5) The retirement plan setting forth the benefits and the  
 1154 trust agreement, if any, covering the duties and  
 1155 responsibilities of the trustees and the regulations of the  
 1156 investment of funds must be in writing and copies made available  
 1157 to the participants and to the general public.

1158 (6) In addition to the defined benefit component of the  
 1159 local law plan, each plan sponsor must have a defined  
 1160 contribution plan component within the local law plan by October

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1161 1, 2015, for noncollectively bargained service, upon entering  
 1162 into a collective bargaining agreement on or after July 1, 2015,  
 1163 or upon the creation date of a new participating plan. Depending  
 1164 upon the application of subsection (1), a defined contribution  
 1165 component may or may not receive any funding.

1166 (7) Notwithstanding any other provision of this chapter, a  
 1167 municipality that has implemented or proposed changes to a local  
 1168 law plan based on the municipality's reliance on an  
 1169 interpretation of this chapter by the Department of Management  
 1170 Services on or after August 14, 2012, and before March 4, 2015,  
 1171 may continue the implemented changes or continue to implement  
 1172 proposed changes. Such reliance must be evidenced by a written  
 1173 collective bargaining proposal or agreement, or formal  
 1174 correspondence between the municipality and the Department of  
 1175 Management Services which describes the specific changes to the  
 1176 local law plan, with the initial proposal, agreement, or  
 1177 correspondence from the municipality dated before March 4, 2015.  
 1178 Changes to the local law plan which are otherwise contrary to  
 1179 minimum benefits and minimum standards may continue in effect  
 1180 until the earlier of October 1, 2018, or the effective date of a  
 1181 collective bargaining agreement that is contrary to the changes  
 1182 to the local law plan.

1183 Section 13. The Legislature finds that a proper and  
 1184 legitimate state purpose is served when employees and retirees  
 1185 of this state and its political subdivisions, and the  
 1186 dependents, survivors, and beneficiaries of such employees and  
 1187 retirees, are extended the basic protections afforded by  
 1188 governmental retirement systems that provide fair and adequate  
 1189 benefits and that are managed, administered, and funded in an

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1190 actuarially sound manner as required under s. 14, Article X of  
 1191 the State Constitution and part VII of chapter 112, Florida  
 1192 Statutes. Therefore, the Legislature determines and declares  
 1193 that this act fulfills an important state interest.

1194 Section 14. This act shall take effect July 1, 2015.

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# TAXPAYERS FOR SUSTAINABLE PENSIONS

Representative Janet Adkins  
313 House Office Building  
402 South Monroe Street  
Tallahassee, FL 32399-1300

AMERICANS FOR PROSPERITY

January 20, 2015

ASSOCIATED INDUSTRIES OF FLORIDA

FLORIDA CHAMBER FOUNDATION

Dear Representative Adkins:

FLORIDA LEAGUE OF CITIES

Across the state of Florida, cities have amassed nearly \$11 billion in unfunded pension liabilities. Florida cities will be forced to pay off these debts by assessing and collecting additional taxes and fees from residents, or cutting city services, such as parks and recreation, trash collection, public works, community maintenance, or even public safety officer positions. This pension debt is directly affecting the quality of life in Florida communities, and unless reforms are undertaken quickly, the debt will continue to climb.

FLORIDA TAXWATCH

LEROY COLLINS INSTITUTE

The Taxpayers for Sustainable Pensions is a coalition of individual policy groups dedicated to municipal pension reform across the state. Coalition members are committed to researching solutions to Florida's municipal pension problems and working with key stakeholders to achieve responsible reform that accounts for employee security, long-term sustainability, transparency and accountability.

NATIONAL FEDERATION OF  
INDEPENDENT BUSINESS

R STREET INSTITUTE

REASON FOUNDATION

Sustainable, affordable, and fair pensions for municipal police officers and firefighters can be achieved with comprehensive legislative reforms, to include:

- Clearly stating pension benefit levels, employee contributions and use of insurance premium tax revenues are subject to negotiations between cities and police and fire unions during collective bargaining;
- Removing legislative mandates on police and fire pension benefit levels, such as the "extra benefits" requirement;
- Removing legislative mandates on the composition and authority of police and fire pension boards of trustees;
- Providing options and incentives for cities to consider for placing police and fire in the Florida Retirement System; and
- Reforming disability presumptions for police and fire.

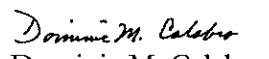
# TAXPAYERS FOR SUSTAINABLE PENSIONS

We hope you will consider these reform options as you design a proposal to control costs in Florida's municipal pension plans, and ensure long-term sustainability and financial security for taxpayers and the public safety employees who dutifully serve the communities of the Sunshine State.

AMERICANS FOR PROSPERITY

Sincerely,

ASSOCIATED INDUSTRIES OF FLORIDA

  
Dominic M. Calabro  
Florida TaxWatch

FLORIDA CHAMBER FOUNDATION



FLORIDA LEAGUE OF CITIES

Tony Carvajal  
Florida Chamber Foundation

FLORIDA TAXWATCH


LEROY COLLINS INSTITUTE



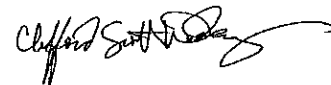
NATIONAL FEDERATION OF  
INDEPENDENT BUSINESS

Chris Hudson  
Americans for Prosperity

R STREET INSTITUTE

  
Tom Feeney  
Associated Industries of Florida

REASON FOUNDATION



Scott Dudley  
Florida League of Cities



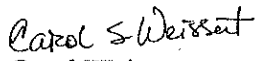
Bill Herrle  
National Federation of Independent Business



Christian Camara  
R Street Institute



Lance Christensen  
Reason Foundation

  
Carol Weissert

LeRoy Collins Institute

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/15  
Meeting Date

172  
Bill Number (if applicable)

PCS  
Amendment Barcode (if applicable)

Topic Pension

Name Doug Bell

Job Title \_\_\_\_\_

Address 215 S. Monroe St.  
Street

Phone 850 222 3533

Tall. FL  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing City of Ormond Beach

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/15  
Meeting Date

SB 172  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Kraig Conn

Job Title Legislative Counsel

Address 301 S. Bronough Suite 300

Phone 222 9684

Tallahassee FL 32302  
City State Zip

Email Kconn@flcities.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2015

Meeting Date

172

Bill Number (if applicable)

Topic Local Police/Firefighter Pensions

Amendment Barcode (if applicable)

Name Matt Puckett

Job Title Lobbyist

Address 300 East Brevard St.

Phone 850-222-3329

Street

Tallahassee

FL

32301

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Police Benevolent Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/15  
Meeting Date

SB 172  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Roger Reinke

Job Title Assistant City Manager

Address 735 8th Street South

Phone 239 213 1896

Naples FL 34102  
City State Zip

Email rreinke@naplesgov.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing City of Naples

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/15

Meeting Date

172

Bill Number (if applicable)

Topic Local Pensions

Amendment Barcode (if applicable)

Name Lisa Henning

Job Title Director of Legislative Affairs

Address 242 Office Plaza

Phone 850-766-8808

Street

Tallahassee

City

State

FL

Zip

3230

Email llegislative@dash.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Fraternal Order of Police

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-15

Meeting Date

SB 172

Bill Number (if applicable)

Topic Municipal Retirement

Amendment Barcode (if applicable)

Name J. Keith Arnold

Job Title GRR

Address 101 N. Monroe St. # 1090

Phone \_\_\_\_\_

Street

TLH

City

FL

State

32301

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing City of Jd. Myers

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/15  
Meeting Date

172 PLS  
Bill Number (if applicable)

897128

Amendment Barcode (if applicable)

Topic Municipal Retirement

Name Rocco Salvatori

Job Title Firefighter

Address 345 W Madison St  
Street

Phone 941-724-5914

Tallahassee FL 32301  
City State Zip

Email roccofish@verizon.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Professional Firefighters

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/21/15  
Meeting Date

SB172  
Bill Number (if applicable)

Topic Local Pension Reform

Amendment Barcode (if applicable)

Name Melissa Fause

Job Title Policy Analyst

Address 200 W. College Ave, Ste 109

Phone 850-408-1218

Street

Tallahassee

FL

State

32308

Zip

Email M.fause@afphq.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/15  
Meeting Date

172  
Bill Number (if applicable)

Topic Local Pension Reform

Amendment Barcode (if applicable)  
1

Name Morgan McCord

Job Title \_\_\_\_\_

Address 106 N Brenagh Street

Phone 850-222-5052

Street

Tallahassee  
City

FL  
State

32301  
Zip

Email mmccord@floridataxwatch.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA TAXWATCH

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

# Overview of Governmental Oversight and Accountability Committee



**SENATOR JEREMY RING, *CHAIR***  
**SENATOR ALAN HAYS, *VICE CHAIR***

**JANUARY 21, 2015**

# Entity Oversight



- **Executive Office of the Governor**
  - ✦ (except the Division on Emergency Management)
- **State Board of Administration**
- **Department of State**
  - ✦ (except the Elections and Corporations programs)
- **Agency for State Technology**
  - Northwood Shared Resource Center
  - Southwood Shared Resource Center
- **Department of Management Services**
  - Florida Human Relations Commission
  - Public Employees Relations Commission
  - Division of Administrative Hearings

# Committee Subject Areas



- Public sector retirement plans
- Enterprise technology and infrastructure
- Investment management of state funds
- State workforce and benefits
- State procurement and contracting
- Open government (public records and open meetings)
- Arts, culture, and historical preservation programs
- Administrative Procedures Act
- Government organization



# Potential Committee Issues



- Local government retirement plans
- Enterprise technology governance
- Investment management of state funds
- State workforce and benefits
- State procurement and contracting
- Florida Retirement System
- Collective bargaining for state employees

# Primary Staff Responsibilities



## **Joe McVaney**

Department of Management Services  
Division of Retirement  
Division of State Group Insurance  
Division of Human Resource Management  
Public Employees Relations Commission  
Human Relations Commission

State Board of Administration  
Defined Contribution Retirement Plan  
Division of Bond Finance  
Investment Advisory Council

**Other Subject Matter:**  
Organizational Structure of State Government  
State Employee Collective Bargaining

## **Grace Kim**

Department of Management Services  
Division of Administrative Hearings

Department of State  
Cultural Affairs  
Historical Resources

Executive Office of the Governor  
(excluding the Division of Emergency  
Management)

**Other Subject Matter:**  
Administrative Procedures Act  
Open Government (public records and  
public meetings)

## **Ashley Peacock**

Department of Management Services  
Division of Telecommunications  
Division of State Purchasing  
Facilities Management Program  
Fleet Management

Department of State  
Library and Information Services

Agency for State Technology  
Northwood Shared Resource Center  
Southwood Shared Resource Center

**Other Subject Matter:**  
Purchasing  
Sovereign Immunity  
Regulatory Infrastructure

# CourtSmart Tag Report

Room: SB 401  
Caption: Senate Governmental Oversight and Accountability

Case:

Type:  
Judge:

Started: 1/21/2015 3:33:26 PM

Ends: 1/21/2015 4:46:57 PM

Length: 01:13:32

3:33:27 PM Meeting called to order, roll call  
3:33:47 PM Recognize committee staff by Chair Ring  
3:34:10 PM Turn chair over to Senator Legg  
3:34:52 PM Show Senator Hays excused until he comes back  
3:35:06 PM SB 172 by Senators Bradley and Ring, Local Pension Refor, take up PCS for SB 172  
3:35:13 PM Recognize Senator Ring to explain the PCS  
3:40:34 PM Public Testimony  
3:41:50 PM Kraig Conn, Florida League of Cities  
3:47:23 PM Questions Senator Latvala  
3:48:57 PM What provisons that were in the bill last year they are not in agreement on?  
3:49:11 PM Kraig Conn to respond  
3:49:41 PM Sen. Latvala question - You agreed to these provisions last year what changed to make you disagree with the provisions this year?  
3:51:12 PM Kraig Conn to respond to a series of questions from Senator Latvala  
3:53:32 PM Senator Ring question to Senator Latvala  
3:54:37 PM Senator Latvala to respond  
3:56:41 PM Senator Ring questions to Kraig Conn  
3:57:31 PM Kraig Conn responds to a series of questions  
4:10:24 PM Matt Puckett, Florida Police Benevolent Association  
4:16:09 PM Roger Reinke, City of Naples  
4:20:55 PM Senator Ring questions to Roger Reinke and responses  
4:27:08 PM Lisa Henning, Fraternal Order of Police  
4:28:11 PM Keith Arnold, City of Ft. Myers  
4:34:56 PM Rocco Salvatori, Florida Professional Firefighters  
4:41:14 PM Morgon McCord, Florida Tax Watch  
4:43:07 PM Question by Senator Ring to Rocco Salvatori  
4:43:25 PM Response by Rocco Salvatori  
4:43:41 PM Debate on the bill  
4:43:58 PM Close on the bill, Senator Ring  
4:46:09 PM Roll call on CS/SB 172  
4:46:42 PM Senator Hays moves to rise