

By the Committee on Community Affairs and Senator Childers

316-1746-98

1                                   A bill to be entitled  
2           An act relating to the municipal firefighters'  
3           pension trust fund and the municipal police  
4           officers' retirement trust fund; amending ss.  
5           175.071, 185.06, F.S.; revising the powers of  
6           the board of trustees for each trust fund;  
7           providing guidelines for the investment of  
8           funds; requiring additional recordkeeping by  
9           the boards; providing qualifications for  
10          professionally qualified independent  
11          consultants; providing an effective date.

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

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15           Section 1. Section 175.071, Florida Statutes, is  
16 amended to read:

17           175.071 General powers and duties of board of  
18 trustees.--For any municipality, special fire control  
19 district, chapter plan, local law municipality, local law  
20 special fire control district, or local law plan under this  
21 chapter:

22           (1) The board of trustees may:  
23           (a) Invest and reinvest the assets of the  
24 firefighters' pension trust fund in annuity and life insurance  
25 contracts of life insurance companies in amounts sufficient to  
26 provide, in whole or in part, the benefits to which all of the  
27 participants in the firefighters' pension trust fund shall be  
28 entitled under the provisions of this chapter and pay the  
29 initial and subsequent premiums thereon.

30           (b) Invest and reinvest the assets of the  
31 firefighters' pension trust fund in:

1           1. Time or savings accounts of a national bank, a  
2 state bank insured by the Bank Insurance Fund ~~Federal Deposit~~  
3 ~~Insurance Corporation~~, or a savings, building, and loan  
4 association insured by the Savings Association Insurance Fund  
5 which are administered by the Federal Deposit Insurance  
6 Corporation or a state or federal chartered credit union whose  
7 share accounts are insured by the National Credit Union Share  
8 Insurance Fund ~~Federal Savings and Loan Insurance Corporation.~~

9           2. Obligations of the United States or obligations  
10 guaranteed as to principal and interest by the Government of  
11 the United States.

12           3. Bonds issued by the State of Israel.

13           4. Bonds, stocks, or other evidences of indebtedness  
14 issued or guaranteed by a corporation organized under the laws  
15 of the United States, any state or organized territory of the  
16 United States, or the District of Columbia, provided:

17           a. The corporation is listed on any one or more of the  
18 recognized national stock exchanges and, in the case of bonds  
19 only, holds a rating in one of the three highest  
20 classifications by a major rating service; and

21           b. The board of trustees shall not invest more than 5  
22 percent of its assets in the common stock or capital stock of  
23 any one issuing company, nor shall the aggregate investment in  
24 any one issuing company exceed 5 percent of the outstanding  
25 capital stock of that company or the aggregate of its  
26 investments under this subparagraph at cost exceed 50 ~~30~~  
27 percent of the assets of the fund.

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29 This paragraph shall apply to all boards of trustees and  
30 participants. However, in the event that a municipality or  
31 special fire control district has a duly enacted pension plan

1 pursuant to, and in compliance with, s. 175.351, and the  
2 trustees thereof desire to vary the investment procedures  
3 herein, the trustees of such plan shall request a variance of  
4 the investment procedures as outlined herein only through a  
5 municipal ordinance, special act of the Legislature, or  
6 resolution by the governing body of the special fire control  
7 district; where a special act, or a municipality by ordinance  
8 adopted prior to the effective date of this act ~~October 1,~~  
9 ~~1986~~, permits a greater than 50-percent ~~30-percent~~ equity  
10 investment, such municipality shall not be required to comply  
11 with the aggregate equity investment provisions of this  
12 paragraph. The board of trustees may invest up to 10 percent  
13 of plan assets in foreign securities. ~~Investments shall not be~~  
14 ~~made in any stocks, bonds, or other securities owned or~~  
15 ~~controlled by a government other than that of the United~~  
16 ~~States or the several states.~~

17 (c) Issue drafts upon the firefighters' pension trust  
18 fund pursuant to this act and rules and regulations prescribed  
19 by the board of trustees. All such drafts shall be  
20 consecutively numbered, be signed by the chair and secretary,  
21 and state upon their faces the purpose for which the drafts  
22 are drawn. The treasurer or depository of each municipality  
23 or special fire control district shall retain such drafts when  
24 paid, as permanent vouchers for disbursements made, and no  
25 money shall be otherwise drawn from the fund.

26 (d) Convert into cash any securities of the fund.

27 (e) Keep a complete record of all receipts and  
28 disbursements and of the board's acts and proceedings.

29 (2) Any and all acts and decisions shall be  
30 effectuated by vote of a majority of the ~~at least three~~  
31 members of the board; however, no trustee shall take part in

1 any action in connection with the trustee's own participation  
2 in the fund, and no unfair discrimination shall be shown to  
3 any individual firefighter participating in the fund.

4 (3) The board's action on all claims for retirement  
5 under this act shall be final, provided, however, that the  
6 rules and regulations of the board have been complied with.

7 (4) The secretary of the board of trustees shall keep  
8 a record of all persons receiving retirement payments under  
9 the provisions of this chapter, in which shall be noted the  
10 time when the pension is allowed and when the pension shall  
11 cease to be paid. In this record, the secretary shall keep a  
12 list of all firefighters employed by the municipality or  
13 special fire control district. The record shall show the  
14 name, address, and time of employment of such firefighters and  
15 when they cease to be employed by the municipality or special  
16 fire control district.

17 (5)~~(4)~~ The sole and exclusive administration of, and  
18 the responsibilities for, the proper operation of the  
19 firefighters' pension trust fund and for making effective the  
20 provisions of this chapter are vested in the board of  
21 trustees; however, nothing herein shall empower a board of  
22 trustees to amend the provisions of a retirement plan without  
23 the approval of the municipality or special fire control  
24 district. The board of trustees shall keep in convenient form  
25 such data as shall be necessary for an actuarial valuation of  
26 the firefighters' pension trust fund and for checking the  
27 actual experience of the fund.

28 (6)(a)~~(5)~~ At least once every 3 years, the board of  
29 trustees shall retain a professionally qualified ~~an~~  
30 independent consultant who shall ~~professionally qualified to~~  
31 evaluate the performance of any existing professional money

1 manager and managers. ~~The independent consultant~~ shall make  
2 recommendations to the board of trustees regarding the  
3 selection of money managers for the next investment term.  
4 These recommendations shall be considered by the board of  
5 trustees at its next regularly scheduled meeting. The date,  
6 time, place, and subject of this meeting shall be advertised  
7 in the same manner as for any meeting of the board ~~a newspaper~~  
8 ~~of general circulation in the municipality or special fire~~  
9 ~~control district, as appropriate, at least 10 days prior to~~  
10 ~~the date of the hearing.~~

11 (b) For purposes of this subsection, the term  
12 "professionally qualified independent consultant" means a  
13 consultant who, based on education and experience, is  
14 professionally qualified to evaluate the performance of  
15 professional money managers, and who, at a minimum:

16 1. Provides his or her services on a flat-fee basis.

17 2. Is not associated in any manner with the money  
18 manager for the pension fund.

19 3. Makes calculations according to the American  
20 Banking Institute method of calculating time-weighted rates of  
21 return. All calculations must be made net of fees.

22 4. Has 3 or more years of experience working in the  
23 public sector.

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

27 (a) Employ independent legal counsel at the pension  
28 fund's expense.

29 (b) Employ an independent actuary at the pension  
30 fund's expense.

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

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5 If the board chooses to use the municipality's or special  
6 district's legal counsel or actuary, or chooses to use any of  
7 the municipality's or special district's other professional,  
8 technical, or other advisers, it may do so only under terms  
9 and conditions acceptable to the board.

10           Section 2. Section 185.06, Florida Statutes, is  
11 amended to read:

12           185.06 General powers and duties of board of  
13 trustees.--For any municipality, chapter plan, local law  
14 municipality, or local law plan under this chapter:

15           (1) The board of trustees may:

16           (a) Invest and reinvest the assets of the retirement  
17 trust fund in annuity and life insurance contracts of life  
18 insurance companies in amounts sufficient to provide, in whole  
19 or in part, the benefits to which all of the participants in  
20 the municipal police officers' retirement trust fund shall be  
21 entitled under the provisions of this chapter, and pay the  
22 initial and subsequent premiums thereon.

23           (b) Invest and reinvest the assets of the retirement  
24 trust fund in:

25           1. Time or savings accounts of a national bank, a  
26 state bank insured by the Bank Insurance Fund ~~Federal Deposit~~  
27 ~~Insurance Corporation~~, or a savings and loan association  
28 insured by the Savings Association Insurance Fund which are  
29 administered by the Federal Deposit Insurance Corporation or a  
30 state or federal chartered credit union whose share accounts

1 are insured by the National Credit Union Share Insurance Fund  
2 ~~Federal Savings and Loan Insurance Corporation.~~

3 2. Obligations of the United States or obligations  
4 guaranteed as to principal and interest by the United States.

5 3. Bonds issued by the State of Israel.

6 4. Bonds, stocks, or other evidences of indebtedness  
7 issued or guaranteed by a corporation organized under the laws  
8 of the United States, any state or organized territory of the  
9 United States, or the District of Columbia, provided:

10 a. The corporation is listed on any one or more of the  
11 recognized national stock exchanges and, in the case of bonds  
12 only, holds a rating in one of the three highest  
13 classifications by a major rating service; and

14 b. The board of trustees shall not invest more than 5  
15 percent of its assets in the common stock or capital stock of  
16 any one issuing company, nor shall the aggregate investment in  
17 any one issuing company exceed 5 percent of the outstanding  
18 capital stock of the company or the aggregate of its  
19 investments under this subparagraph at cost exceed 50 ~~30~~  
20 percent of the fund's assets.

21  
22 This paragraph shall apply to all boards of trustees and  
23 participants. However, in the event that a municipality has a  
24 duly enacted pension plan pursuant to, and in compliance with,  
25 s. 185.35 and the trustees thereof desire to vary the  
26 investment procedures herein, the trustees of such plan shall  
27 request a variance of the investment procedures as outlined  
28 herein only through a municipal ordinance or special act of  
29 the Legislature; where a special act, or a municipality by  
30 ordinance adopted prior to the effective date of this act  
31 ~~October 1, 1986~~, permits a greater than 50-percent ~~30-percent~~

1 equity investment, such municipality shall not be required to  
2 comply with the aggregate equity investment provisions of this  
3 paragraph. The board of trustees may invest up to 10 percent  
4 of plan assets in foreign securities.~~Investments shall not be~~  
5 ~~made in any stocks, bonds, or other securities owned or~~  
6 ~~controlled by a government other than that of the United~~  
7 ~~States or of the several states.~~

8 (c) Issue drafts upon the municipal police officers'  
9 retirement trust fund pursuant to this act and rules and  
10 regulations prescribed by the board of trustees. All such  
11 drafts shall be consecutively numbered, be signed by the chair  
12 and secretary, and state upon their faces the purposes for  
13 which the drafts are drawn. The city treasurer or other  
14 depository shall retain such drafts when paid, as permanent  
15 vouchers for disbursements made, and no money shall otherwise  
16 be drawn from the fund.

17 (d) Finally decide all claims to relief under the  
18 board's rules and regulations and pursuant to the provisions  
19 of this act.

20 (e) Convert into cash any securities of the fund.

21 (f) Keep a complete record of all receipts and  
22 disbursements and of the board's acts and proceedings.

23 (2) Any and all acts and decisions shall be  
24 effectuated by vote of a majority of the ~~at least three~~  
25 members of the board; however, no trustee shall take part in  
26 any action in connection with his or her own participation in  
27 the fund, and no unfair discrimination shall be shown to any  
28 individual employee participating in the fund.

29 (3) The secretary of the board of trustees shall keep  
30 a record of all persons receiving retirement payments under  
31 the provisions of this chapter, in which shall be noted the

1 time when the pension is allowed and when the pension shall  
2 cease to be paid. In this record, the secretary shall keep a  
3 list of all police officers employed by the municipality. The  
4 record shall show the name, address, and time of employment of  
5 such police officer and when he or she ceases to be employed  
6 by the municipality.

7 (4)(3) The sole and exclusive administration of, and  
8 the responsibilities for, the proper operation of the  
9 retirement trust fund and for making effective the provisions  
10 of this chapter are vested in the board of trustees; however,  
11 nothing herein shall empower a board of trustees to amend the  
12 provisions of a retirement plan without the approval of the  
13 municipality. The board of trustees shall keep in convenient  
14 form such data as shall be necessary for an actuarial  
15 valuation of the retirement trust fund and for checking the  
16 actual experience of the fund.

17 (5)(a)(4) At least once every 3 years, the board of  
18 trustees shall retain a professionally qualified an  
19 independent consultant who shall professionally qualified to  
20 evaluate the performance of any existing professional money  
21 manager and managers. The independent consultant shall make  
22 recommendations to the board of trustees regarding the  
23 selection of money managers for the next investment term.  
24 These recommendations shall be considered by the board of  
25 trustees at its next regularly scheduled meeting. The date,  
26 time, place, and subject of this meeting shall be advertised  
27 in the same manner as for any meeting of the board a newspaper  
28 of general circulation in the municipality at least 10 days  
29 prior to the date of the hearing.

30 (b) For the purpose of this subsection, the term  
31 "professionally qualified independent consultant" means a

1 consultant who, based on education and experience, is  
2 professionally qualified to evaluate the performance of  
3 professional money managers, and who, at a minimum:

4 1. Provides his or her services on a flat-fee basis.

5 2. Is not associated in any manner with the money  
6 manager for the pension fund.

7 3. Makes calculations according to the American  
8 Banking Institute method of calculating time-weighted rates of  
9 return. All calculations must be made net of fees.

10 4. Has 3 or more years of experience working in the  
11 public sector.

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

15 (a) Employ independent legal counsel at the pension  
16 fund's expense.

17 (b) Employ an independent actuary at the pension  
18 fund's expense.

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

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23 If the board chooses to use the municipality's or special  
24 district's legal counsel or actuary, or chooses to use any of  
25 the municipality's other professional, technical, or other  
26 advisers, it may do so only under terms and conditions  
27 acceptable to the board.

28 Section 3. This act shall take effect July 1, 1998.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 266

Expands the list of institutions in which the trustees may invest the pension funds to include a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund;

Authorizes the trustees to invest pension funds in the stock of a corporation which does not hold a rating in one of the three highest classifications by a major rating service -- the amendment limits this investment restriction to bonds only; and

In determining the "aggregate" investment of the fund, the amendment retains the term "cost," rather than replacing it with "market," and deletes new language which provided that exceeding the stated limit does not necessarily require liquidation.