

STORAGE NAME: h1665.go

DATE: April 4, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1665

RELATING TO: Orlando Fire Dept. Pension Fund (Orange Co.)

SPONSOR(S): Representative Posey and others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS
 - (2) COMMUNITY AFFAIRS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This is a local bill for the City of Orlando Firefighters' Pension Fund. This bill amends their plan relating to a cost-of-living increase for members and beneficiaries, with the actuarial cost thereof being borne by members. The plan is amended to include a Deferred Retirement Option Plan (DROP) and to provide for an employer "pick up" of member contributions in compliance with s. 414(h) of the Internal Revenue Code. Additionally, this bill creates an Optional Retirement Benefit Plan in an attempt to meet the minimum requirements of Chapter 175, F.S., as amended by the 1999 Legislature, however, this proposal is contrary to the provisions of Chapter 99-1, L.O.F., as such "alternative compliance" proposals were rejected by the 1999 Legislature.

The effective date of this bill is October 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The City of Orlando Firefighters' Pension Plan does not currently include a DROP option for its employees. Member contributions are currently taxable and there is no optional retirement benefit plan.

Section 175.351, F.S., provides that for any municipality, etc., to participate in the distribution of the premium tax pursuant to s. 175.101, F.S., local law plans must meet the minimum benefits and minimum standards set forth in this chapter. However, local law plans in effect on October 1, 1998, shall be required to comply with the minimum benefit provisions of this chapter only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance. When a plan is in compliance with such minimal benefit provisions, as subsequent additional premium tax revenues become available they shall be used to provide extra benefits to firefighters.

C. EFFECT OF PROPOSED CHANGES:

This bill adds a Deferred Retirement Option Plan (DROP) option which is considered an enhancement to the pension plan and will provide employees with a benefit that is not currently available. The implementation of the "pick up" provision allows employees to make pre-tax employee contributions to the pension plan and is considered a benefit enhancement. The addition of the Optional Retirement Benefit Plan is an attempt to meet the minimum requirements of s. 175.351, F.S., as amended by the 1999 Legislature, however, the proposal is contrary to current law, as explained in the section-by-section analysis below.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Includes a technical amendment changing the term "firemen" and "firewomen" to "firefighters"; and clarifies that DROP participants are considered retirees for purposes of the plan.

Section 2. Amends the cost of living (COLA) benefit to provide that firefighters retiring with 20 or more years of service shall receive a triennial adjustment starting three years after retirement or, in the case of DROP participants, three years after actual termination. Provides that members who terminate employment without

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being eligible for the COLA will not be entitled to any refund of the contributions they made to fund the benefit.

- Section 3. Clarifies the day of the month when a retirement benefit is to be paid.
- Section 4. Adds a Deferred Retirement Option Plan (DROP) provision. This provision allows a member who has elected to participate in the DROP, to receive a lump-sum payment, or other payment, in addition to a monthly pension, upon termination of employment.
- Section 5. Provides for the employer's "pick up" of member contributions in compliance with s. 414(h) of the Internal Revenue Code. This allows member contributions to be pre-tax contributions for federal income tax purposes.
- Section 6. Adds a new section in an attempt to alternatively comply with the minimum benefit provisions of s. 175.351, F.S., by creating an "Optional Retirement Benefit Plan." Such a provision is contrary to the provisions found in this section, as such "alternative compliance" proposals were rejected by the 1999 Legislature when it amended Chapter 175, F.S. Section 175.351, F.S., allows existing local law plans to incrementally meet the minimums as additional state moneys become available. The City of Orlando received \$129,840.21 in additional state moneys this year. Any minimum benefits or standards that can be provided at "no cost" or that can be made with the additional state premium tax revenue must be made. Consequently, an amendment will be offered by the Committee on Governmental Operations to remove this section from the bill.
- Section 7. Allows the plan to be amended by local ordinance to the limited extent necessary to obtain tax qualification of the plan under the Internal Revenue Code.
- Section 8. Provides an effective date of October 1, 2000, for this bill. It should be noted that s. 175.381, F.S., provides that those plans established by special act of the Legislature shall have until July 1, 2000, to comply with the provisions of this act.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 3, and 4, 2000

WHERE? The Orlando Sentinel

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

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C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

Section 6 of this bill creates an optional retirement benefit plan in an attempt to alternatively comply with the minimum benefit provisions of chapter 175, F.S. Such a provision is contrary to the provisions found in current law, as such "alternative compliance" proposals were rejected by the 1999 Legislature when these minimum requirements were established. Therefore, section 6 should be removed from the bill as not complying with current law.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Governmental Operations proposes the following amendments:

Am 1, remove section 6 from the bill;

Am 2, on page 10, line 3, remove additional and insert addition; and

Am 3, on page 10, line 23, remove form and insert from.

In section 7 of the bill, Am 4, will remove current language in the bill and replace it with language authorizing the City of Orlando to amend the pension plan to the limited extent necessary to obtain tax qualification of the plan under the Internal Revenue Code and to comply with the minimum standards and benefit levels required by Chapter 175, Florida Statutes, in order for the plan to receive funding from the Police and Firefighters' Premium Tax Trust Fund. However, the local legislative body must obtain prior agreement of the members and their collective bargaining agent, if any, should such required amendments change any plan benefits.

VI. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jimmy O. Helms

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