HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1245 w/CS Municipal Police/Firefighter Pension
SPONSOR(S): Kosmas
TIED BILLS: **IDEN./SIM. BILLS:** SB 2334

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government & Veterans' Affairs	18 Y, 0 N w/CS	Nelson	Highsmith-Smith
2) Insurance		Cheek	Schulte
3) State Administration			
4) Finance & Tax			
5)			

SUMMARY ANALYSIS

This bill authorizes certain municipalities to provide extra benefits to firefighter and police officer pension plans prior to receipt of additional premium tax revenues.

The bill has no fiscal impact on state budgets. It could impact a city fiscally to the extent the city agrees to prefund extra benefits.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[]	N/A[x]
2. Lower taxes?	Yes[]	No[]	N/A[x]
3. Expand individual freedom?	Yes[]	No[]	N/A[x]
4. Increase personal responsibility?	Yes[]	No[]	N/A[x]
5. Empower families?	Yes[]	No[]	N/A[x]

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

B. EFFECT OF PROPOSED CHANGES:

This bill authorizes municipalities providing a pension plan to firefighters and police officers pursuant to chapters 175 and 185, F.S., to "prefund" extra benefits and be reimbursed from future premium tax receipts. The reimbursement costs would include both the city's contributions plus interest at a rate agreed to by a certified bargaining agent, where applicable, or a majority of the firefighters or police officers. The bill requires that agreements and actuarial impact statements relating to the plans be submitted to the Division of Retirement for approval.

<u>Present Situation</u>

Chapters 175 and 185, F.S., provide for municipal and special district firefighters' and police officers' pension plans. Currently, there are 223 cities participating in 343 local plans representing over 42,000 police officers and firefighters. [1] One source of funding for such plans is the net proceeds from a state excise tax levied on property and casualty insurance companies, known as the premium tax.

<u>Current Law</u>

Chapter 112, Florida Statutes

Part VII, chapter 112, F. S., the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of s. 14, Art. X of the State Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans.

Chapters 175 and 185, Florida Statutes

Chapters 175 and 185, F. S., provide the statutory authority for firefighter and municipal police pensions. These acts were established by the Legislature to provide a uniform retirement system for the benefit of firefighters and police officers; retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the retirement trust funds. The State Division of Retirement is responsible for the daily oversight and monitoring for actuarial soundness of the retirement plans.

Section 175.351, F.S., provides in part that "[t]he premium tax provided by this chapter shall in all cases be used in its entirety to provide extra benefits to firefighters, or to firefighters and police officers, where included."

[1] Bureau of Local Retirement (March 10, 2003).

Section 185.35, F.S., contains substantially the same language.

C. SECTION DIRECTORY:

Section 1: Amends s. 175.351, F. S., to allow municipalities to provide extra benefits to pension plan members prior to receipt of additional premium tax revenues. Provides that the municipality shall advance the difference between the actuarially determined costs of the extra benefits and the additional premium tax revenues. Thereafter, the municipality annually advances the cost of the extra benefits until the growth in the available additional premium tax revenues is sufficient to fund the extra benefits. At this time, all additional premium tax revenues in excess of the cost of the benefit improvements is credited against the municipality's required contributions until the funds equal the funds advanced by the municipality to the plan with interest.

Provides that actuarial impact statements and agreements between municipalities and firefighters, or firefighters and police officers, be submitted to the Division of Retirement for approval that said agreement is in compliance with the requirements of part VII of ch. 112.

Section 2: Amends s. 185.35, F.S., to allow municipalities to provide extra benefits to pension plan members prior to receipt of additional premium tax revenues. Provides that the municipality shall advance the difference between the actuarially determined costs of the extra benefits and the additional premium tax revenues. Thereafter, the municipality annually advances the cost of the extra benefits until the growth in the available additional premium tax revenues is sufficient to fund the extra benefits. At this time, all additional premium tax revenues in excess of the cost of the benefit improvements is credited against the municipality's required contributions until the funds equal the funds advanced by the municipality to the plan with interest.

Provides that actuarial impact statements and agreements between municipalities and firefighters, or firefighters and police officers, be submitted to the Division of Retirement for approval that said agreement is in compliance with the requirements of part VII of ch. 112.

Section 3: Provides an effective date upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT: Not applicable.

1. Revenues:

   Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS: This bill could impact a city fiscally to the extent the city agrees to prefund extra benefits.

1. Revenues:
2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: Not applicable.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

   The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

   This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other: Not applicable.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

<u>Drafting Issues</u>:

The Bureau of Local Retirement has opined that the proposal appears to create a conflict with the provisions in s. 175.351 and 185.35, F.S., that state that the premium tax revenues “shall in all cases be used in its entirety to provide extra benefits” to firefighters and police officers.

<u>Other Comments:</u>

The bill has been reviewed by the Bureau of Local Retirement, Department of Management Services who state that the bill is not affected by the requirements of s. 14, art. X of the State Constitution and the provisions of chapter 112, F.S., and that there or no actuarial or benefit issues associated with the bill that are not funded. [2]

The City of New Smyrna Beach has stated that the city and unions representing the members of the fire and police department negotiated substantial improvements to their retirement plans, but were unable to implement plan improvements under existing law, as interpreted by the Division of Retirement. The City feels that it is a disservice to firefighters and police officers to require them to wait for benefit improvements until the full amount of additional premium taxes are available if the City is willing to advance the necessary funding.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Local Government & Veterans’ Affairs Committee adopted four amendments at its meeting on March 27, 2003. The first and second amendments are technical and apply the provisions of the bill to paragraph (a) of the subsection rather than (a) and (b).[3] Amendments three and four provide that prior

---

[2] Charles Slavin, Actuary (March 10, 2003).

[3] The Bureau of Local Retirement advised that the bill, as originally drafted, provided that a municipality could: (a) allow the state premium tax revenues to be placed in an existing pension plan where it becomes an integral part of the plan and is to pay extra benefits, or in paragraph (b) allow the state premium tax revenues to be placed in a supplemental plan to pay extra benefits to plan participants. The Bureau suggested that consideration should be given to amending the proposal so that it was a subparagraph under paragraph (a). This would clarify that the city may prefund extra benefits under the proposal only in situations where the members have elected to place the state premium tax revenues in an existing plan to provide extra benefits. This would avoid a situation where members elect to place state premium tax revenues in a supplemental plan, as provided under paragraph (b), and have such revenues

to an agreement between a municipality and firefighters and/or police officers, the plan administrator must submit the agreement and the actuarial impact statement to the Division of Retirement for approval.

redirected to the existing plan to benefit the city for prefunding an improvement in that plan.