HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1245 w/CS Municipal Police/Firefighter Pension
SPONSOR(S): Kosmas
TIED BILLS: none **IDEN./SIM. BILLS:** CS/SB 2334

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government & Veterans' Affairs	18 Y, 0 N w/CS	Nelson	Highsmith-Smith
2) Insurance	17 Y, 0 N w/CS	Cheek	Schulte
3) State Administration		Bond	Everhart
4) Finance & Tax			
5)			

SUMMARY ANALYSIS

This bill authorizes municipalities to provide extra retirement benefits to firefighter and police officer pension plans prior to receipt of additional premium tax revenues, provided such extra retirement benefits are included in a collective bargaining agreement entered into prior to July 1, 2003, and provided that the municipality advances funds necessary to ensure the actuarial soundness of the plan.

This bill does not appear to have a fiscal impact on state or local government.

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:

Background

Chapters 175 and 185, F.S., provide for municipal and special district firefighters' and municipal 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.

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, F. S., respectively, provide the statutory authority for municipal and special fire control district firefighter pensions, 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." Section 185.35, F.S., contains substantially the same language.

Effect of Bill

This bill authorizes municipalities providing a pension plan to firefighters or to police officers pursuant to chapters 175 and 185, F.S., to "prefund" extra retirement benefits and be reimbursed from future premium tax receipts, provided that such extra benefits are part of a collective bargaining agreement entered into prior to July 1, 2003. A plan must remain actuarially sound, and thus a municipality may have to "loan" monies to the fund and seek future reimbursement. 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 by 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.

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

C. SECTION DIRECTORY:

Section 1: Amends s. 175.351, F. S., to allow municipalities to provide extra benefits to firefighter pension plan members prior to receipt of additional premium tax revenues.

Section 2: Amends s. 185.35, F.S., to allow municipalities to provide extra benefits to police pension plan members prior to receipt of additional premium tax revenues.

Section 3: Provides an effective date upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

   Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures:

   None. See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

This bill will only create a fiscal impact on local governments that elect to provide additional retirement benefits.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

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.

The bill has been reviewed by the Bureau of Local Retirement, Department of Management Services. That office states 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 committee substitute adopted by the Committee on Insurance differs from the bill as filed in that the committee substitute applies the provisions of the bill to paragraph (a) of the subsection rather than (a) and (b).[3] The committee substitute also provides that prior 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. Finally, the committee substitute requires cities to enter into a collective bargaining agreement prior to July 1, 2003 in order to receive enhanced benefits for police officers and/or firefighters.

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