

By the Committee on Comprehensive Planning; and Senator Lynn

316-2223-03

1 A bill to be entitled
2 An act relating to municipal police and
3 firefighter pensions; amending s. 175.351,
4 F.S.; authorizing certain municipalities to
5 provide extra benefits to firefighter pension
6 plans prior to the receipt of additional
7 premium tax revenues; providing a procedure;
8 amending s. 185.35, F.S.; authorizing certain
9 municipalities to provide extra benefits in
10 police officer pension plans under certain
11 circumstances; providing a procedure; providing
12 an effective date.

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

16 Section 1. Section 175.351, Florida Statutes, is
17 amended to read:

18 175.351 Municipalities and special fire control
19 districts having their own pension plans for
20 firefighters.--For any municipality, special fire control
21 district, local law municipality, local law special fire
22 control district, or local law plan under this chapter, in
23 order for municipalities and special fire control districts
24 with their own pension plans for firefighters, or for
25 firefighters and police officers, where included, to
26 participate in the distribution of the tax fund established
27 pursuant to s. 175.101, local law plans must meet the minimum
28 benefits and minimum standards set forth in this chapter.

29 (1) PREMIUM TAX INCOME.--If a municipality has a
30 pension plan for firefighters, or a pension plan for
31 firefighters and police officers, where included, which in the

1 opinion of the division meets the minimum benefits and minimum
2 standards set forth in this chapter, the board of trustees of
3 the pension plan, as approved by a majority of firefighters of
4 the municipality, may:

5 (a) Place the income from the premium tax in s.
6 175.101 in such pension plan for the sole and exclusive use of
7 its firefighters, or for firefighters and police officers,
8 where included, where it shall become an integral part of that
9 pension plan and shall be used to pay extra benefits to the
10 firefighters included in that pension plan; or

11 (b) Place the income from the premium tax in s.
12 175.101 in a separate supplemental plan to pay extra benefits
13 to firefighters, or to firefighters and police officers where
14 included, participating in such separate supplemental plan.

15
16 The premium tax provided by this chapter shall in all cases be
17 used in its entirety to provide extra benefits to
18 firefighters, or to firefighters and police officers, where
19 included. However, local law plans in effect on October 1,
20 1998, shall be required to comply with the minimum benefit
21 provisions of this chapter only to the extent that additional
22 premium tax revenues become available to incrementally fund
23 the cost of such compliance as provided in s. 175.162(2)(a).

24 When a plan is in compliance with such minimum benefit
25 provisions, as subsequent additional premium tax revenues
26 become available, they shall be used to provide extra
27 benefits. For the purpose of this chapter, "additional premium
28 tax revenues" means revenues received by a municipality or
29 special fire control district pursuant to s. 175.121 that
30 exceed that amount received for calendar year 1997 and the
31 term "extra benefits" means benefits in addition to or greater

1 than those provided to general employees of the municipality.
2 Local law plans created by special act before May 23, 1939,
3 shall be deemed to comply with this chapter. Any municipality
4 that entered into a collective bargaining agreement prior to
5 July 1, 2003, whereby the municipality agreed to provide
6 enhanced benefits to the firefighters, or firefighters and
7 police officers where included, prior to receipt of additional
8 state premium tax revenues may, as an alternative to paragraph
9 (a), provide extra benefits to the members prior to receipt of
10 additional premium tax revenues to fund such benefit
11 improvements. The municipality shall advance to the
12 appropriate plan the difference between actuarially determined
13 costs of the extra benefits to be provided and the additional
14 premium tax revenues received at the time of advancement.
15 Thereafter, the municipality shall annually advance to the
16 plan the difference in the actuarially determined cost of the
17 extra benefits which were funded by the initial advance and
18 the available additional premium tax revenues until such time
19 as the growth in the available additional premium tax revenues
20 is sufficient to fund the costs of the extra benefits provided
21 by the initial advance. At such time, all additional premium
22 tax revenues in excess of the costs of the benefit
23 improvements shall be credited against the municipality's
24 required contributions until the funds credited to the
25 municipality equal the funds advanced by the municipality to
26 the plan with interest. Thereafter, all available additional
27 premium tax revenues shall be used to provide additional
28 benefits. Interest may be assessed against the funds advanced
29 at a rate not to exceed the rate permitted by law, provided
30 such interest is agreed to by the certified bargaining agent,
31 where applicable, or a majority of firefighters or

1 firefighters and police officers, where included in the
2 pension plan. In no event shall the municipality be relieved
3 of its fiduciary responsibility, as determined by the plan
4 actuary, of funding these extra benefits if the additional
5 premium tax revenues are not sufficient to fund the extra
6 benefits. Prior to implementing an agreement between the
7 municipality and the firefighters, or firefighters and police
8 officers where included, the plan administrator shall submit
9 such agreement and the actuarial impact statement prepared by
10 the plan actuary to the Division of Retirement for its
11 determination and approval that the agreement is in compliance
12 with the requirements of part VII of chapter 112.

13 (2) ADOPTION OR REVISION OF A LOCAL LAW PLAN.--No
14 retirement plan or amendment to a retirement plan shall be
15 proposed for adoption unless the proposed plan or amendment
16 contains an actuarial estimate of the costs involved. No such
17 proposed plan or proposed plan change shall be adopted without
18 the approval of the municipality, special fire control
19 district, or, where permitted, the Legislature. Copies of the
20 proposed plan or proposed plan change and the actuarial impact
21 statement of the proposed plan or proposed plan change shall
22 be furnished to the division prior to the last public hearing
23 thereon. Such statement shall also indicate whether the
24 proposed plan or proposed plan change is in compliance with s.
25 14, Art. X of the State Constitution and those provisions of
26 part VII of chapter 112 which are not expressly provided in
27 this chapter. Notwithstanding any other provision, only those
28 local law plans created by special act of legislation prior to
29 May 23, 1939, shall be deemed to meet the minimum benefits and
30 minimum standards only in this chapter.

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1 (3) Notwithstanding any other provision, with respect
2 to any supplemental plan municipality:

3 (a) Section 175.032(3)(a) shall not apply, and a local
4 law plan and a supplemental plan may continue to use their
5 definition of compensation or salary in existence on the
6 effective date of this act.

7 (b) Section 175.061(1)(b) shall not apply, and a local
8 law plan and a supplemental plan shall continue to be
9 administered by a board or boards of trustees numbered,
10 constituted, and selected as the board or boards were
11 numbered, constituted, and selected on December 1, 2000.

12 (c) The election set forth in paragraph (1)(b) shall
13 be deemed to have been made.

14 (4) The retirement plan setting forth the benefits and
15 the trust agreement, if any, covering the duties and
16 responsibilities of the trustees and the regulations of the
17 investment of funds must be in writing, and copies thereof
18 must be made available to the participants and to the general
19 public.

20 Section 2. Section 185.35, Florida Statutes, is
21 amended to read:

22 185.35 Municipalities having their own pension plans
23 for police officers.--For any municipality, chapter plan,
24 local law municipality, or local law plan under this chapter,
25 in order for municipalities with their own pension plans for
26 police officers, or for police officers and firefighters where
27 included, to participate in the distribution of the tax fund
28 established pursuant to s. 185.08, local law plans must meet
29 the minimum benefits and minimum standards set forth in this
30 chapter:

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1 (1) PREMIUM TAX INCOME.--If a municipality has a
2 pension plan for police officers, or for police officers and
3 firefighters where included, which, in the opinion of the
4 division, meets the minimum benefits and minimum standards set
5 forth in this chapter, the board of trustees of the pension
6 plan, as approved by a majority of police officers of the
7 municipality, may:

8 (a) Place the income from the premium tax in s. 185.08
9 in such pension plan for the sole and exclusive use of its
10 police officers, or its police officers and firefighters where
11 included, where it shall become an integral part of that
12 pension plan and shall be used to pay extra benefits to the
13 police officers included in that pension plan; or

14 (b) May place the income from the premium tax in s.
15 185.08 in a separate supplemental plan to pay extra benefits
16 to the police officers, or police officers and firefighters
17 where included, participating in such separate supplemental
18 plan.

19
20 The premium tax provided by this chapter shall in all cases be
21 used in its entirety to provide extra benefits to police
22 officers, or to police officers and firefighters, where
23 included. However, local law plans in effect on October 1,
24 1998, shall be required to comply with the minimum benefit
25 provisions of this chapter only to the extent that additional
26 premium tax revenues become available to incrementally fund
27 the cost of such compliance as provided in s. 185.16(2). When
28 a plan is in compliance with such minimum benefit provisions,
29 as subsequent additional tax revenues become available, they
30 shall be used to provide extra benefits. For the purpose of
31 this chapter, "additional premium tax revenues" means revenues

1 received by a municipality pursuant to s. 185.10 that exceed
2 the amount received for calendar year 1997 and the term "extra
3 benefits" means benefits in addition to or greater than those
4 provided to general employees of the municipality. Local law
5 plans created by special act before May 23, 1939, shall be
6 deemed to comply with this chapter. Any municipality that
7 entered into a collective bargaining agreement prior to July
8 1, 2003, whereby the municipality agreed to provide enhanced
9 benefits to the police officers, or police officers and
10 firefighters where included, prior to receipt of additional
11 state premium tax revenues may, as an alternative to paragraph
12 (a), provide extra benefits to the members prior to receipt of
13 additional premium tax revenues to fund such benefit
14 improvements. The municipality shall advance to the
15 appropriate plan the difference between actuarially determined
16 costs of the extra benefits to be provided and the additional
17 premium tax revenues received at the time of advancement.
18 Thereafter, the municipality shall annually advance to the
19 plan the difference in the actuarially determined cost of the
20 extra benefits which were funded by the initial advance and
21 the available additional premium tax revenues until such time
22 as the growth in the available additional premium tax revenues
23 is sufficient to fund the costs of the extra benefits provided
24 by the initial advance. At such time, all additional premium
25 tax revenues in excess of the costs of the benefit
26 improvements shall be credited against the municipality's
27 required contributions until the funds credited to the
28 municipality equal the funds advanced by the municipality to
29 the plan with interest. Thereafter, all available additional
30 premium tax revenues shall be used to provide additional
31 benefits. Interest may be assessed against the funds advanced

1 at a rate not to exceed the rate permitted by law, provided
2 such interest is agreed to by the certified bargaining agent,
3 where applicable, or a majority of police officers or police
4 officers and firefighters, where included in the pension plan.
5 In no event shall the municipality be relieved of its
6 fiduciary responsibility, as determined by the plan actuary,
7 of funding these extra benefits if the additional premium tax
8 revenues are not sufficient to fund the extra benefits. Prior
9 to implementing an agreement between the municipality and the
10 police officers, or police officers and firefighters where
11 included, the plan administrator shall submit such agreement
12 and actuarial impact statement prepared by the plan actuary to
13 the Division of Retirement for its determination and approval
14 that the agreement is in compliance with the requirements of
15 part VII of chapter 112.

16 (2) ADOPTION OR REVISION OF A LOCAL LAW PLAN.--No
17 retirement plan or amendment to a retirement plan shall be
18 proposed for adoption unless the proposed plan or amendment
19 contains an actuarial estimate of the costs involved. No such
20 proposed plan or proposed plan change shall be adopted without
21 the approval of the municipality or, where permitted, the
22 Legislature. Copies of the proposed plan or proposed plan
23 change and the actuarial impact statement of the proposed plan
24 or proposed plan change shall be furnished to the division
25 prior to the last public hearing thereon. Such statement shall
26 also indicate whether the proposed plan or proposed plan
27 change is in compliance with s. 14, Art. X of the State
28 Constitution and those provisions of part VII of chapter 112
29 which are not expressly provided in this chapter.
30 Notwithstanding any other provision, only those local law
31 plans created by special act of legislation prior to May 23,

1 1939, shall be deemed to meet the minimum benefits and minimum
2 standards only in this chapter.

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

5 (a) Section 185.02(4)(a) shall not apply, and a local
6 law plan and a supplemental plan may continue to use their
7 definition of compensation or salary in existence on the
8 effective date of this act.

9 (b) Section 185.05(1)(b) shall not apply, and a local
10 law plan and a supplemental plan shall continue to be
11 administered by a board or boards of trustees numbered,
12 constituted, and selected as the board or boards were
13 numbered, constituted, and selected on December 1, 2000.

14 (c) The election set forth in paragraph (1)(b) shall
15 be deemed to have been made.

16 (4) The retirement plan setting forth the benefits and
17 the trust agreement, if any, covering the duties and
18 responsibilities of the trustees and the regulations of the
19 investment of funds must be in writing and copies made
20 available to the participants and to the general public.

21 Section 3. This act shall take effect upon becoming a
22 law.

23
24 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
25 COMMITTEE SUBSTITUTE FOR
26 Senate Bill 2334

27 The CS differs from the bill as filed in that it limits this
28 pre-funding alternative for firefighter and police pension
29 plans, rather than regular and supplemental plans; and
30 requires the Division of Retirement to review and approve a
31 pre-funding plan for firefighters and police officers prior to
implementation.