HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1633 W. Palm Beach Firefighters Pension
SPONSOR(S): Domino
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Affairs (Sub)		Nelson	Cutchins
2) Local Government & Veterans' Affairs			
3) State Administration			
4)			
5)			

SUMMARY ANALYSIS

This bill relates to the City of West Palm Beach Firefighters' Pension Fund. The bill provides enhanced retirement benefits by:

- amending the definition of "final average salary" to include the two best years of employment;
- diverting premium tax moneys to a defined benefit plan for the year ending 9/30/04;
- increasing the employee contribution rate to 18.2 percent;
- requiring 26 years of service, regardless of age, as an alternative eligibility for normal retirement;
- providing an additional retirement date of age 55 with 10 years of service;
- providing for a benefit accrual factor of four percent;
- eliminating the DROP program;
- adding a BackDROP benefit; and
- enhancing line of duty death benefits to 66.67 percent.

According to the Economic Impact Statement, the estimated cost of administration and implementation for FY 04-05 will be $1,516,334. The cost for FY 05-06 also is estimated to be $1,516,334.

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:

Constitutional Provision/Public Retirement and Pensions

Art. X, s. 14, State Constitution, provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis.

Chapter 112, Florida Statutes

Part VII, ch. 112, F. S., the “Florida Protection of Public Employee Retirement Benefits Act,” was adopted by the Legislature to implement the provisions of art. X, s. 14 of the State Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. The act is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.

Section 112.63, F.S., provides that no unit of local government shall agree to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body, and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change upon the local retirement system, consistent with the actuarial review, and has furnished a copy of such statement to the Division of Retirement, Department of Management Services. Such statement also is required to indicate whether the proposed changes are in compliance with art. X, s. 14 of the State Constitution and with s. 112.64, F.S., which relates to administration of funds and amortization of unfunded liability.

Chapter 175, Florida Statutes

Chapter 175, F. S., provides the statutory authority for firefighter pensions. This act was established by the Legislature to provide a uniform retirement system for the benefit of firefighters; retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the firefighters’ retirement trust funds.

Pension plan funding comes from four sources: net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the “premium tax”); employee contributions; other revenue sources; and mandatory payments by the city of any extra amount needed to keep the plan solvent. To qualify for premium tax dollars, plans must meet requirements found in ch. 175, F.S. Responsibility for overseeing and monitoring these plans is assigned to the Division of Retirement of the Department of Management Services (DMS), but day-to-day operational control rests with local boards of trustees. Most Florida firefighters participate in these plans.

The Premium Tax

Section 175.101, F.S., authorizes a state excise tax on property insurance premiums. Section 175.351, F.S., provides that if a municipality has its own pension plan for firefighters (which in the opinion of the Division meets the minimum benefits and minimum standards set forth in ch.175, F.S.), the board of trustees of the pension plan, as approved by a majority of firefighters of the municipality, may:

- place the income from the premium tax in such pension plan for the sole and exclusive use of its firefighters, where it shall become an integral part of that pension plan and shall be used to pay extra benefits to the firefighters included in that pension plan; or

- place the income from the premium tax in a separate supplemental plan to pay extra benefits to firefighters.

This provision also states that the premium tax provided by ch. 175, F.S., shall in all cases be used in its entirety to provide extra benefits to firefighters.

Local law plans in effect on October 1, 1998, are required to comply with the minimum benefit provisions of ch. 175, F.S., only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance as provided in s. 175.162(2)(a), F.S.[1] When a plan is in compliance with minimum benefit provisions, as subsequent additional premium tax revenues become available, they are to be used to provide extra benefits. For the purpose of this chapter, “additional premium tax revenues” means revenues received by a municipality that exceed the amount received for calendar year 1997, and the term “extra benefits” means benefits in addition to or greater than those provided to general employees of the municipality.

HB 1633

The City of West Palm Beach provides retirement benefits to its firefighters through a local pension plan pursuant to the provisions of ch. 175, F.S. The West Palm Beach Police Pension Fund was created as part of ch. 24981, L.O.F., 1947, the reestablishment charter for the City of West Palm Beach.
This bill amends ch. 24981, L.O.F., as amended.

The pension plan is being modified as the result of a collective bargaining agreement between the city and the West Palm Beach Firefighters, Local 727 of the International Association of Firefighters. Both parties ratified the agreement as of March 29, 2003. The bill provides enhanced retirement benefits by:

- amending the definition of “final average salary” to include the two best years of employment:
- diverting premium tax moneys to a defined benefit plan for the year ending 9/30/04;
- increasing the employee contribution rate to 18.2 percent;
- requiring 26 years of service, regardless of age, as an alternative eligibility for normal retirement;
- providing an additional retirement date of age 55 with 10 years of service;
- provides for a benefit accrual factor of four percent;
- eliminating the DROP program;
- adding a BackDROP benefit; and
- enhancing line of duty death benefits to 66.67 percent.

[1] This section provides that the amount of monthly retirement income payable to a full-time firefighter who retires on or after his or her normal retirement date shall be an amount equal to the number of his or her years of credited service multiplied by two percent of his or her average final compensation. If current state contributions are not adequate to fund additional benefits to meet the minimum requirements of ch. 175, F.S., only such incremental increases are required as state moneys are adequate to provide.

Currently, the final average salary is the highest three years of employment; state premium tax moneys are deposited into employee share accounts; employee contribution rates are 9.85 percent; normal retirement is age 50 with 15 years or 25 years of service; the benefit accrual factor is 2.5 percent for service rendered prior to 10/1/82 and three percent for service after 9/30/82 with maximum of 78 percent of final average salary; and death in the line of duty benefits are three-fourths of the duty disability pension a member would otherwise have been entitled to received at the time of his death.

C. SECTION DIRECTORY:

Section 1: Amends ch. 24981, L.O.F., 1947, as amended.

(1)(a) 7.: Amends the definition of "final average salary" to mean the average of the monthly salary paid a member in the two best years of employment paid in and prior to the 23rd year of service.[2] The current definition bases this figure on the three best years of service. Provides that no salary amounts paid prior to October 1, 2000,[3] will be used in the calculation of final average salary. Those members whose final average salary would include salary amounts paid prior to October 1, 2000, are required to use the amounts paid during the period from October 1, 2000, through September 30, 2001. This change maximizes a member's benefits under the 28-year plan.

(3)(a): Provides for the state premium tax moneys received during October 1, 2003, through September 30, 2004, to be used in the defined benefit plan. This change provides that all of ch. 175, F.S., funds received during the specified time period will be used to offset the city's contributions to the pension plan to pay for the cost of extra benefits—less any amounts used to fund share account benefits for DROP members who do not convert. (See, (5)(j)3.a. of proposed plan.) Beginning October 1, 2004, the state premium tax moneys again will be paid into share accounts.[4]

(3)(b): Amends the member contribution rates effective the first full payroll period after October 1, 2004. The members will contribute 18.2 percent, 18.7 percent effective January 1, 2005, and 19.2 percent of their salary effective January 1, 2006. Currently, members contribute 8.85. For contributions made before October 1, 2004, any contribution amount over 6.85 percent is to be used to purchase eligibility for participation in post-retirement health insurance benefits. Effective October 1, 2004, that amount increases to 15.2 percent. Thus, the employees' contributions will increase by 8.35 percent initially, and by a total of 9.35 percent by January 2006.

(5)(a)1.: Amends the normal retirement date to include age 55 and 10 years of service (along with the current requirement of 50 years and 15 years of service) and changes the service retirement from 25 years to 26 years of service, regardless of age. Provides for an enhanced retirement benefit of four percent (up from the current three percent) of the final average salary subject to a maximum of 92 percent. This increases the cap on benefits for plan members from 78 percent to 92 percent. The language also includes another benefit at a lower multiplier with no cap.

(5)(a)2.: Provides for a transition benefit for active employees who are in DROP. A member may retain their original benefit, or convert to a new benefit, including a BackDROP, contingent upon termination of employment. Current DROP members have the opportunity to make an election within 45 days of the effective date of the plan change. Clarifies the DROP participant's benefits with regard to a BackDROP conversion.[5]

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[2] Within this retirement system, a "career" is defined as 28 years with a five year BackDROP.
[3] October 1, 2000, is the effective date of a "significant" salary increase.
[4] This reference is to an individual member account which is credited with a pro rata share of all of the moneys received from ch. 175, F.S., tax revenues on or after October 1, 1988.
[5] A "BackDROP conversion" is described as when "[t]he DROP member is entitled to a lump sum payment equal to the new monthly benefit annualized times a period of whole years as selected by the member up to a maximum of five. "

(5)(a)2.b.(II): Provides that the four percent benefit accrual rate is contingent upon the adoption and maintenance of the assumptions in subsection (23)[6] and provides that any change in such assumptions that results in a requirement for increased city contributions shall result in a decrease in the benefit accrual factor, but in no event shall the benefit accrual factor be less than 3.5 percent prospectively.

(5)(j)3.a.: Provides that ch.175, F.S., state premium tax moneys for the fiscal year beginning October 1, 2003, and ending September 30, 2004, shall be allocated to the share accounts of the DROP members who elect not to convert. Provides a methodology for calculation of share allocations.[7]

(5)(j)5.: Clarifies the redistribution of forfeited accounts. Adds language that requires that assets first be used to ensure a former member's refund of contributions has not actuarially adversely impacted the payment for the extra benefits. If such an impact exists, the shortfall must be made up before any amounts are reallocated to active members.[8]

(5)(j)6.a.: Replaces the term "retirant" with the term "member."

(5)(k): Provides that no new members may enter DROP upon ratification of the collective bargaining agreement between the city and the firefighters' union. Provides that existing DROP members on the ratification date will have the option to remain in DROP for the remainder of their individual five-year terms.[9]

(5)(l): Adds a BackDROP (Backwards Deferred Retirement Option Plan). Describes the circumstances upon which a member may take advantage of this benefit provision (has attained age 53 with 18 or more years of service or has acquired 26 years of service regardless of age); Provides that a member may not participate in both the DROP and the BackDROP.

5(l)1.b.: Provides that election to participate will be forfeited if not exercised within the first 28 years of credited service, with exceptions.

5(l)1.c.: Provides that a member will not be eligible to receive a BackDROP benefit that is greater than an accumulation of 60 months or less than an accumulation of 36 of the monthly retirement benefit, with exceptions.

5(l)1.d.: Provides that member contributions shall continue throughout the period of employment and are not refundable.

5(l)1.e.: Provides that members must retire and terminate employment to be eligible for benefit payment.

5(l)2.: Provides for benefit payments, to be calculated as a single sum, which may be received in a lump sum or installments.

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[6] Section 23 of the plan is entitled "actuarial assumptions," and provides that the following actuarial assumptions shall be used for all purposes in connection with the fund: (a) the period for amortizing current, future and past actuarial gains or losses shall be 20 years; and (b) the assumed investment rate of return shall be 8.25 percent.

[7] The city states that this section was amended to document the use of ch. 174, F.S., money received in FY 2003-2004 to offset city contributions.

[8] This provision ensures that the city receives the full 8.2 percent value of increased member contributions. As member contributions are refundable, any member who leaves employment with less than 10 years of service takes their employee contributions. The member's share account is forfeited. Before the forfeiture is divided according to the plan, the plan actuary determines whether the member's refund of contributions has created a shortfall in the members' 8.2 percent contribution to the plan.

[9] The collective bargaining agreement replaces the DROP benefit with a BackDROP benefit. Under the DROP program, a member "retires" from the pension plan, and continues to work while pension benefits are accounted for in an individual account within the pension plan. Under BackDROP, a member does not retire from the plan until they are ready to terminate employment. The member makes contributions for the entire term of their employment. The BackDROP account is created by a mathematical calculation at the time of retirement. The member's benefit is credited with 8.25 percent interest, compounded annually, less administrative expenses.

5(l)3. Provides that members may select one of three methods to credit investment earnings to their accounts: (1) using the rate of investment returned earned on pension fund assets; (2) a fixed rate of 8.25 percent; or (3) a combination of (1) and (2).

(7)(b)1.: Amends a surviving spouse's benefits to 66 and 2/3 percent of a members' highest 12 months salary or top step firefighter pay, whichever is greater. The current benefit is equal to 75 percent of the duty disability pension the member would have been entitled to receive. This will provide the spouse of a deceased firefighter with a greater monthly benefit, in the case of death in the line of duty.

Section 2: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? January 26, 2004

WHERE? *The Palm Beach Post*, a daily newspaper published in Palm Beach County, Florida

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

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

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

According to the Economic Impact Statement, the estimated cost of administration and implementation for FY 04-05 will be $1,516,334. The cost for FY 05-06 also is estimated to be $1,516,334.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Actuarial Statement of Fiscal Soundness provided by the Division of Retirement provides:

a. This bill affects neither the Florida Retirement System nor the System's Trust Fund.

b. The requirements of art. X, s. 14, State Constitution and the provisions of ch. 112, part VII, F.S., are satisfied.

c. Explanation: Various benefit improvements, termination of the DROP program for new members, adoption of a BackDROP option for current DROP members, and increased member contribution rates.

d. Fiscal Note: For FY 03/04 only, the estimated $823,000 ch.175, F.S., premium tax refund will be paid to the fund offsetting a like amount from the city. The results in the following table are from the actuarial impact statement dated March 25, 2004, with a revision on March 26.

			After Amendments					
	FY 03/04		**FY 03/04**		**FY 04/05**		**FY 05/06**	
	%	$(000)	%	$(000)	%	$(000)	%	$(000)
Member	9.85%	$1,372	12.35[1]%	$ 1,240	18.20%	$1,928	18.70%	$2,090
Ch. 175	0		8.20	823	.51[2]	54	.51	57
City	25.44	2,172	29.69	2,982	32.04	3,395	31.54	3,525
	35.29%	**$3,544**	**50.24%**	**$5,045**	**50.75%**	**$5,377**	**50.75%**	**$5,672**

[1]Includes an estimated 2.5 percent attributable to the BackDROP provisions.
[2]A technical adjustment to provide for unfavorable actuarial impact regarding refund of member contributions for certain benefits.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES