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CHAMBER ACTION

1 The Governmental Operations Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to firefighter and municipal police
7 pensions; amending s. 175.032, F.S.; revising the
8 definition of "firefighter"; amending s. 175.061, F.S.;
9 providing for the terms of service for the board of
10 trustees of the firefighters' pension trust fund to be
11 revised under certain circumstances; amending s. 175.071,
12 F.S.; requiring the board of trustees to perform its
13 powers subject to certain fiduciary standards and ethics
14 provisions; revising the percentage of assets of the
15 firefighters' pension trust fund that the board of
16 trustees may invest in foreign securities; authorizing two
17 individuals subject to certain fiduciary standards and
18 designated by the board to sign drafts issued upon the
19 firefighters' pension trust fund; amending s. 185.05,
20 F.S.; providing for the terms of service for the board of
21 trustees of the municipal police officers' retirement
22 trust fund to be revised under certain circumstances;
23 amending s. 185.06, F.S.; requiring the board of trustees

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24 | to perform its powers subject to certain fiduciary
 25 | standards and ethics provisions; revising the percentage
 26 | of assets of the municipal police officers' retirement
 27 | trust fund that the board of trustees may invest in
 28 | foreign securities; authorizing two individuals subject to
 29 | certain fiduciary standards and designated by the board to
 30 | sign drafts issued upon the municipal police officers'
 31 | retirement trust fund; providing for severability;
 32 | providing contingent effective dates.

33

34 | Be It Enacted by the Legislature of the State of Florida:

35

36 | Section 1. Paragraph (a) of subsection (8) of section
 37 | 175.032, Florida Statutes, is amended to read:

38 | 175.032 Definitions.--For any municipality, special fire
 39 | control district, chapter plan, local law municipality, local
 40 | law special fire control district, or local law plan under this
 41 | chapter, the following words and phrases have the following
 42 | meanings:

43 | (8)(a) "Firefighter" means any person employed solely by a
 44 | constituted fire department of any municipality or special fire
 45 | control district who is certified as a firefighter as a
 46 | condition of employment in accordance with the provisions of s.
 47 | 633.35 and whose duty it is to extinguish fires, to protect
 48 | life, or to protect property. "Firefighter" includes all
 49 | certified supervisory and command personnel whose duties
 50 | include, in whole or in part, the supervision, training,
 51 | guidance, and management responsibilities of full-time

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52 | firefighters, part-time firefighters, or auxiliary firefighters,
 53 | but does not include part-time firefighters or auxiliary
 54 | firefighters. However, for purposes of this chapter only,
 55 | "firefighter" also includes public safety officers who are
 56 | responsible for performing both police and fire services, who
 57 | are certified as police officers or firefighters, and who are
 58 | certified by their employers to the Chief Financial Officer as
 59 | participating in this chapter prior to October 1, 1979.
 60 | Effective October 1, 1979, public safety officers who have not
 61 | been certified as participating in this chapter shall be
 62 | considered police officers for retirement purposes and shall be
 63 | eligible to participate in chapter 185. Any plan may provide
 64 | that the fire chief shall have an option to participate, or not,
 65 | in that plan.

66 | Section 2. Paragraph (a) of subsection (1) of section
 67 | 175.061, Florida Statutes, is amended to read:

68 | 175.061 Board of trustees; members; terms of office;
 69 | meetings; legal entity; costs; attorney's fees.--For any
 70 | municipality, special fire control district, chapter plan, local
 71 | law municipality, local law special fire control district, or
 72 | local law plan under this chapter:

73 | (1) In each municipality and in each special fire control
 74 | district there is hereby created a board of trustees of the
 75 | firefighters' pension trust fund, which shall be solely
 76 | responsible for administering the trust fund. Effective October
 77 | 1, 1986, and thereafter:

78 | (a) The membership of the board of trustees for a chapter
 79 | plan shall consist of five members, two of whom, unless

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80 otherwise prohibited by law, shall be legal residents of the
81 municipality or special fire control district, who shall be
82 appointed by the governing body of the municipality or special
83 fire control district, and two of whom shall be full-time
84 firefighters as defined in s. 175.032 who shall be elected by a
85 majority of the active firefighters who are members of such
86 plan. With respect to any chapter plan or local law plan that,
87 on January 1, 1997, allowed retired firefighters to vote in such
88 elections, retirees may continue to vote in such elections. The
89 fifth member shall be chosen by a majority of the previous four
90 members as provided for herein, and such person's name shall be
91 submitted to the governing body of the municipality or special
92 fire control district. Upon receipt of the fifth person's name,
93 the governing body of the municipality or special fire control
94 district shall, as a ministerial duty, appoint such person to
95 the board of trustees as its fifth member. The fifth member
96 shall have the same rights as each of the other four members
97 appointed or elected as herein provided, shall serve as trustee
98 for a period of 2 years, and may succeed himself or herself in
99 office. Each resident member shall serve as trustee for a period
100 of 2 years, unless sooner replaced by the governing body at
101 whose pleasure he or she shall serve, and may succeed himself or
102 herself as a trustee. Each firefighter member shall serve as
103 trustee for a period of 2 years, unless he or she sooner leaves
104 the employment of the municipality or special fire control
105 district as a firefighter, whereupon a successor shall be chosen
106 in the same manner as an original appointment. Each firefighter
107 may succeed himself or herself in office. Effective July 1,

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108 | 2006, the terms of office of the appointed and elected members
109 | of the board may be amended by municipal ordinance, special act
110 | of the Legislature, or resolution adopted by the governing body
111 | of the special fire control district, to extend the terms of
112 | office from 2 years to 4 years. The length of the terms of
113 | office shall be the same for all board members.

114 | Section 3. Effective July 1, 2006, if House Bill 7155 or
115 | similar legislation is adopted in the same legislative session
116 | or an extension thereof and becomes law, subsection (1) of
117 | section 175.071, Florida Statutes, is amended to read:

118 | 175.071 General powers and duties of board of
119 | trustees.--For any municipality, special fire control district,
120 | chapter plan, local law municipality, local law special fire
121 | control district, or local law plan under this chapter:

122 | (1) The board of trustees, subject to the fiduciary
123 | standards in ss. 112.656, 112.661, and 518.11 and the Code of
124 | Ethics in ss. 112.311-112.3187, may:

125 | (a) Invest and reinvest the assets of the firefighters'
126 | pension trust fund in annuity and life insurance contracts of
127 | life insurance companies in amounts sufficient to provide, in
128 | whole or in part, the benefits to which all of the participants
129 | in the firefighters' pension trust fund shall be entitled under
130 | the provisions of this chapter and pay the initial and
131 | subsequent premiums thereon.

132 | (b) Invest and reinvest the assets of the firefighters'
133 | pension trust fund in:

134 | 1. Time or savings accounts of a national bank, a state
135 | bank insured by the Bank Insurance Fund, or a savings, building,

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136 and loan association insured by the Savings Association
137 Insurance Fund which is administered by the Federal Deposit
138 Insurance Corporation or a state or federal chartered credit
139 union whose share accounts are insured by the National Credit
140 Union Share Insurance Fund.

141 2. Obligations of the United States or obligations
142 guaranteed as to principal and interest by the government of the
143 United States.

144 3. Bonds issued by the State of Israel.

145 4. Bonds, stocks, or other evidences of indebtedness
146 issued or guaranteed by a corporation organized under the laws
147 of the United States, any state or organized territory of the
148 United States, or the District of Columbia, provided:

149 a. The corporation is listed on any one or more of the
150 recognized national stock exchanges or on the National Market
151 System of the NASDAQ Stock Market and, in the case of bonds
152 only, holds a rating in one of the three highest classifications
153 by a major rating service; and

154 b. The board of trustees shall not invest more than 5
155 percent of its assets in the common stock or capital stock of
156 any one issuing company, nor shall the aggregate investment in
157 any one issuing company exceed 5 percent of the outstanding
158 capital stock of that company or the aggregate of its
159 investments under this subparagraph at cost exceed 50 percent of
160 the assets of the fund.

161
162 This paragraph shall apply to all boards of trustees and
163 participants. However, in the event that a municipality or

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164 special fire control district has a duly enacted pension plan
165 pursuant to, and in compliance with, s. 175.351, and the
166 trustees thereof desire to vary the investment procedures
167 herein, the trustees of such plan shall request a variance of
168 the investment procedures as outlined herein only through a
169 municipal ordinance, special act of the Legislature, or
170 resolution by the governing body of the special fire control
171 district; where a special act, or a municipality by ordinance
172 adopted prior to July 1, 1998, permits a greater than 50-percent
173 equity investment, such municipality shall not be required to
174 comply with the aggregate equity investment provisions of this
175 paragraph. Notwithstanding any other provision of law to the
176 contrary, nothing in this section may be construed to take away
177 any preexisting legal authority to make equity investments that
178 exceed the requirements of this paragraph. The board of trustees
179 may invest up to 25 ~~40~~ percent of plan assets in foreign
180 securities.

181 (c) Issue drafts upon the firefighters' pension trust fund
182 pursuant to this act and rules and regulations prescribed by the
183 board of trustees. All such drafts shall be consecutively
184 numbered, be signed by the chair and secretary or two
185 individuals designated by the board who are subject to the same
186 fiduciary standards as required for the board of trustees under
187 this subsection, and state upon their faces the purpose for
188 which the drafts are drawn. The treasurer or depository of each
189 municipality or special fire control district shall retain such
190 drafts when paid, as permanent vouchers for disbursements made,
191 and no money shall be otherwise drawn from the fund.

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192 (d) Convert into cash any securities of the fund.

193 (e) Keep a complete record of all receipts and
194 disbursements and of the board's acts and proceedings.

195 Section 4. Effective July 1, 2006, if House Bill 7155 or
196 similar legislation is not adopted in the same legislative
197 session or an extension thereof, subsection (1) of section
198 175.071, Florida Statutes, is amended to read:

199 175.071 General powers and duties of board of
200 trustees.--For any municipality, special fire control district,
201 chapter plan, local law municipality, local law special fire
202 control district, or local law plan under this chapter:

203 (1) The board of trustees, subject to the fiduciary
204 standards in ss. 112.656, 112.661, and 518.11 and the Code of
205 Ethics in ss. 112.311-112.3187, may:

206 (a) Invest and reinvest the assets of the firefighters'
207 pension trust fund in annuity and life insurance contracts of
208 life insurance companies in amounts sufficient to provide, in
209 whole or in part, the benefits to which all of the participants
210 in the firefighters' pension trust fund shall be entitled under
211 the provisions of this chapter and pay the initial and
212 subsequent premiums thereon.

213 (b) Invest and reinvest the assets of the firefighters'
214 pension trust fund in:

215 1. Time or savings accounts of a national bank, a state
216 bank insured by the Bank Insurance Fund, or a savings, building,
217 and loan association insured by the Savings Association
218 Insurance Fund which is administered by the Federal Deposit
219 Insurance Corporation or a state or federal chartered credit

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220 | union whose share accounts are insured by the National Credit
221 | Union Share Insurance Fund.

222 | 2. Obligations of the United States or obligations
223 | guaranteed as to principal and interest by the government of the
224 | United States.

225 | 3. Bonds issued by the State of Israel.

226 | 4. Bonds, stocks, or other evidences of indebtedness
227 | issued or guaranteed by a corporation organized under the laws
228 | of the United States, any state or organized territory of the
229 | United States, or the District of Columbia, provided:

230 | a. The corporation is listed on any one or more of the
231 | recognized national stock exchanges or on the National Market
232 | System of the NASDAQ Stock Market and, in the case of bonds
233 | only, holds a rating in one of the three highest classifications
234 | by a major rating service; and

235 | b. The board of trustees shall not invest more than 5
236 | percent of its assets in the common stock or capital stock of
237 | any one issuing company, nor shall the aggregate investment in
238 | any one issuing company exceed 5 percent of the outstanding
239 | capital stock of that company or the aggregate of its
240 | investments under this subparagraph at cost exceed 50 percent of
241 | the assets of the fund.

242 |
243 | This paragraph shall apply to all boards of trustees and
244 | participants. However, in the event that a municipality or
245 | special fire control district has a duly enacted pension plan
246 | pursuant to, and in compliance with, s. 175.351, and the
247 | trustees thereof desire to vary the investment procedures

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248 herein, the trustees of such plan shall request a variance of
249 the investment procedures as outlined herein only through a
250 municipal ordinance, special act of the Legislature, or
251 resolution by the governing body of the special fire control
252 district; where a special act, or a municipality by ordinance
253 adopted prior to July 1, 1998, permits a greater than 50-percent
254 equity investment, such municipality shall not be required to
255 comply with the aggregate equity investment provisions of this
256 paragraph. Notwithstanding any other provision of law to the
257 contrary, nothing in this section may be construed to take away
258 any preexisting legal authority to make equity investments that
259 exceed the requirements of this paragraph. The board of trustees
260 may invest up to 20 ~~10~~ percent of plan assets in foreign
261 securities.

262 (c) Issue drafts upon the firefighters' pension trust fund
263 pursuant to this act and rules and regulations prescribed by the
264 board of trustees. All such drafts shall be consecutively
265 numbered, be signed by the chair and secretary or two
266 individuals designated by the board who are subject to the same
267 fiduciary standards as required for the board of trustees under
268 this subsection, and state upon their faces the purpose for
269 which the drafts are drawn. The treasurer or depository of each
270 municipality or special fire control district shall retain such
271 drafts when paid, as permanent vouchers for disbursements made,
272 and no money shall be otherwise drawn from the fund.

273 (d) Convert into cash any securities of the fund.

274 (e) Keep a complete record of all receipts and
275 disbursements and of the board's acts and proceedings.

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276 Section 5. Paragraph (a) of subsection (1) of section
277 185.05, Florida Statutes, is amended to read:

278 185.05 Board of trustees; members; terms of office;
279 meetings; legal entity; costs; attorney's fees.--For any
280 municipality, chapter plan, local law municipality, or local law
281 plan under this chapter:

282 (1) In each municipality described in s. 185.03 there is
283 hereby created a board of trustees of the municipal police
284 officers' retirement trust fund, which shall be solely
285 responsible for administering the trust fund. Effective October
286 1, 1986, and thereafter:

287 (a) The membership of the board of trustees for chapter
288 plans shall consist of five members, two of whom, unless
289 otherwise prohibited by law, shall be legal residents of the
290 municipality, who shall be appointed by the legislative body of
291 the municipality, and two of whom shall be police officers as
292 defined in s. 185.02 who shall be elected by a majority of the
293 active police officers who are members of such plan. With
294 respect to any chapter plan or local law plan that, on January
295 1, 1997, allowed retired police officers to vote in such
296 elections, retirees may continue to vote in such elections. The
297 fifth member shall be chosen by a majority of the previous four
298 members, and such person's name shall be submitted to the
299 legislative body of the municipality. Upon receipt of the fifth
300 person's name, the legislative body of the municipality shall,
301 as a ministerial duty, appoint such person to the board of
302 trustees as its fifth member. The fifth member shall have the
303 same rights as each of the other four members appointed or

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304 | elected as herein provided, shall serve as trustee for a period
 305 | of 2 years, and may succeed himself or herself in office. Each
 306 | resident member shall serve as trustee for a period of 2 years,
 307 | unless sooner replaced by the legislative body at whose pleasure
 308 | the member shall serve, and may succeed himself or herself as a
 309 | trustee. Each police officer member shall serve as trustee for a
 310 | period of 2 years, unless he or she sooner leaves the employment
 311 | of the municipality as a police officer, whereupon the
 312 | legislative body of the municipality shall choose a successor in
 313 | the same manner as an original appointment. Each police officer
 314 | may succeed himself or herself in office. Effective July 1,
 315 | 2006, the terms of office of the appointed and elected members
 316 | of the board may be amended by municipal ordinance or special
 317 | act of the Legislature to extend the terms of office from 2
 318 | years to 4 years. The length of the terms of office shall be the
 319 | same for all board members.

320 | Section 6. Effective July 1, 2006, if House Bill 7155 or
 321 | similar legislation is adopted in the same legislative session
 322 | or an extension thereof and becomes law, subsection (1) of
 323 | section 185.06, Florida Statutes, is amended to read:

324 | 185.06 General powers and duties of board of
 325 | trustees.--For any municipality, chapter plan, local law
 326 | municipality, or local law plan under this chapter:

327 | (1) The board of trustees, subject to the fiduciary
 328 | standards in ss. 112.656, 112.661, and 518.11 and the Code of
 329 | Ethics in ss. 112.311-112.3187, may:

330 | (a) Invest and reinvest the assets of the retirement trust
 331 | fund in annuity and life insurance contracts of life insurance

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332 companies in amounts sufficient to provide, in whole or in part,
333 the benefits to which all of the participants in the municipal
334 police officers' retirement trust fund shall be entitled under
335 the provisions of this chapter, and pay the initial and
336 subsequent premiums thereon.

337 (b) Invest and reinvest the assets of the retirement trust
338 fund in:

339 1. Time or savings accounts of a national bank, a state
340 bank insured by the Bank Insurance Fund, or a savings and loan
341 association insured by the Savings Association Insurance Fund
342 which is administered by the Federal Deposit Insurance
343 Corporation or a state or federal chartered credit union whose
344 share accounts are insured by the National Credit Union Share
345 Insurance Fund.

346 2. Obligations of the United States or obligations
347 guaranteed as to principal and interest by the United States.

348 3. Bonds issued by the State of Israel.

349 4. Bonds, stocks, or other evidences of indebtedness
350 issued or guaranteed by a corporation organized under the laws
351 of the United States, any state or organized territory of the
352 United States, or the District of Columbia, provided:

353 a. The corporation is listed on any one or more of the
354 recognized national stock exchanges or on the National Market
355 System of the NASDAQ Stock Market and, in the case of bonds
356 only, holds a rating in one of the three highest classifications
357 by a major rating service; and

358 b. The board of trustees shall not invest more than 5
359 percent of its assets in the common stock or capital stock of

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360 any one issuing company, nor shall the aggregate investment in
361 any one issuing company exceed 5 percent of the outstanding
362 capital stock of the company or the aggregate of its investments
363 under this subparagraph at cost exceed 50 percent of the fund's
364 assets.

365
366 This paragraph shall apply to all boards of trustees and
367 participants. However, in the event that a municipality has a
368 duly enacted pension plan pursuant to, and in compliance with,
369 s. 185.35 and the trustees thereof desire to vary the investment
370 procedures herein, the trustees of such plan shall request a
371 variance of the investment procedures as outlined herein only
372 through a municipal ordinance or special act of the Legislature;
373 where a special act, or a municipality by ordinance adopted
374 prior to July 1, 1998, permits a greater than 50-percent equity
375 investment, such municipality shall not be required to comply
376 with the aggregate equity investment provisions of this
377 paragraph. Notwithstanding any other provision of law to the
378 contrary, nothing in this section may be construed to take away
379 any preexisting legal authority to make equity investments that
380 exceed the requirements of this paragraph. The board of trustees
381 may invest up to 25 ~~10~~ percent of plan assets in foreign
382 securities.

383 (c) Issue drafts upon the municipal police officers'
384 retirement trust fund pursuant to this act and rules and
385 regulations prescribed by the board of trustees. All such drafts
386 shall be consecutively numbered, be signed by the chair and
387 secretary or two individuals designated by the board who are

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388 subject to the same fiduciary standards as required for the
389 board of trustees under this subsection, and state upon their
390 faces the purposes for which the drafts are drawn. The city
391 treasurer or other depository shall retain such drafts when
392 paid, as permanent vouchers for disbursements made, and no money
393 shall otherwise be drawn from the fund.

394 (d) Finally decide all claims to relief under the board's
395 rules and regulations and pursuant to the provisions of this
396 act.

397 (e) Convert into cash any securities of the fund.

398 (f) Keep a complete record of all receipts and
399 disbursements and of the board's acts and proceedings.

400 Section 7. Effective July 1, 2006, if House Bill 7155 or
401 similar legislation is not adopted in the same legislative
402 session or an extension thereof, subsection (1) of section
403 185.06, Florida Statutes, is amended to read:

404 185.06 General powers and duties of board of
405 trustees.--For any municipality, chapter plan, local law
406 municipality, or local law plan under this chapter:

407 (1) The board of trustees, subject to the fiduciary
408 standards in ss. 112.656, 112.661, and 518.11 and the Code of
409 Ethics in ss. 112.311-112.3187, may:

410 (a) Invest and reinvest the assets of the retirement trust
411 fund in annuity and life insurance contracts of life insurance
412 companies in amounts sufficient to provide, in whole or in part,
413 the benefits to which all of the participants in the municipal
414 police officers' retirement trust fund shall be entitled under

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415 | the provisions of this chapter, and pay the initial and
416 | subsequent premiums thereon.

417 | (b) Invest and reinvest the assets of the retirement trust
418 | fund in:

419 | 1. Time or savings accounts of a national bank, a state
420 | bank insured by the Bank Insurance Fund, or a savings and loan
421 | association insured by the Savings Association Insurance Fund
422 | which is administered by the Federal Deposit Insurance
423 | Corporation or a state or federal chartered credit union whose
424 | share accounts are insured by the National Credit Union Share
425 | Insurance Fund.

426 | 2. Obligations of the United States or obligations
427 | guaranteed as to principal and interest by the United States.

428 | 3. Bonds issued by the State of Israel.

429 | 4. Bonds, stocks, or other evidences of indebtedness
430 | issued or guaranteed by a corporation organized under the laws
431 | of the United States, any state or organized territory of the
432 | United States, or the District of Columbia, provided:

433 | a. The corporation is listed on any one or more of the
434 | recognized national stock exchanges or on the National Market
435 | System of the NASDAQ Stock Market and, in the case of bonds
436 | only, holds a rating in one of the three highest classifications
437 | by a major rating service; and

438 | b. The board of trustees shall not invest more than 5
439 | percent of its assets in the common stock or capital stock of
440 | any one issuing company, nor shall the aggregate investment in
441 | any one issuing company exceed 5 percent of the outstanding
442 | capital stock of the company or the aggregate of its investments

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443 | under this subparagraph at cost exceed 50 percent of the fund's
444 | assets.

445 |
446 | This paragraph shall apply to all boards of trustees and
447 | participants. However, in the event that a municipality has a
448 | duly enacted pension plan pursuant to, and in compliance with,
449 | s. 185.35 and the trustees thereof desire to vary the investment
450 | procedures herein, the trustees of such plan shall request a
451 | variance of the investment procedures as outlined herein only
452 | through a municipal ordinance or special act of the Legislature;
453 | where a special act, or a municipality by ordinance adopted
454 | prior to July 1, 1998, permits a greater than 50-percent equity
455 | investment, such municipality shall not be required to comply
456 | with the aggregate equity investment provisions of this
457 | paragraph. Notwithstanding any other provision of law to the
458 | contrary, nothing in this section may be construed to take away
459 | any preexisting legal authority to make equity investments that
460 | exceed the requirements of this paragraph. The board of trustees
461 | may invest up to 20 ~~10~~ percent of plan assets in foreign
462 | securities.

463 | (c) Issue drafts upon the municipal police officers'
464 | retirement trust fund pursuant to this act and rules and
465 | regulations prescribed by the board of trustees. All such drafts
466 | shall be consecutively numbered, be signed by the chair and
467 | secretary or two individuals designated by the board who are
468 | subject to the same fiduciary standards as required for the
469 | board of trustees under this subsection, and state upon their
470 | faces the purposes for which the drafts are drawn. The city

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471 treasurer or other depository shall retain such drafts when
472 paid, as permanent vouchers for disbursements made, and no money
473 shall otherwise be drawn from the fund.

474 (d) Finally decide all claims to relief under the board's
475 rules and regulations and pursuant to the provisions of this
476 act.

477 (e) Convert into cash any securities of the fund.

478 (f) Keep a complete record of all receipts and
479 disbursements and of the board's acts and proceedings.

480 Section 8. If any provision of this act or its application
481 to any person or circumstance is held invalid, the invalidity
482 does not affect other provisions or applications of the act
483 which can be given effect without the invalid provision or
484 application, and to this end the provisions of this act are
485 severable.

486 Section 9. Except as otherwise expressly provided in this
487 act, this act shall take effect July 1, 2006.