

By Senator Wise

5-1411-06

1 A bill to be entitled
2 An act relating to the management of public
3 pension funds; amending s. 175.032, F.S.;
4 redefining the term "firefighter"; amending s.
5 175.061, F.S.; revising the term of a member of
6 the board of trustees of the firefighters'
7 pension trust fund for a chapter plan; amending
8 s. 175.071, F.S.; revising provisions governing
9 investments of the assets of a firefighters'
10 pension trust fund; clarifying that such
11 investments are subject to certain fiduciary
12 and ethical standards; authorizing any
13 investment meeting specified criteria;
14 authorizing certain individuals designated by
15 the board of trustees of the firefighters'
16 pension trust fund to sign drafts upon the
17 firefighters' pension trust fund; directing the
18 board to establish, consistent with specified
19 requirements, a maximum age to enter the
20 pension fund notwithstanding any other law;
21 amending s. 185.05, F.S.; revising the term of
22 a member of the board of trustees of the
23 municipal police officers' retirement trust
24 fund for a chapter plan; amending s. 185.06,
25 F.S.; revising provisions governing investments
26 of the assets of the municipal police officers'
27 retirement trust fund; clarifying that such
28 investments are subject to certain fiduciary
29 and ethical standards; authorizing any
30 investment meeting specified criteria;
31 authorizing certain individuals designated by

1 the board of trustees of the municipal police
2 officers' retirement trust fund to sign drafts
3 upon the municipal police officers' retirement
4 trust fund; directing the board to establish,
5 consistent with specified requirements, a
6 maximum age to enter the pension fund
7 notwithstanding any other law; providing for
8 severability; providing an effective date.
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10 Be It Enacted by the Legislature of the State of Florida:
11

12 Section 1. Paragraph (a) of subsection (8) of section
13 175.032, Florida Statutes, is amended to read:

14 175.032 Definitions.--For any municipality, special
15 fire control district, chapter plan, local law municipality,
16 local law special fire control district, or local law plan
17 under this chapter, the following words and phrases have the
18 following meanings:

19 (8)(a) "Firefighter" means any person employed solely
20 by a constituted fire department of any municipality or
21 special fire control district who is certified as a
22 firefighter as a condition of employment in accordance with
23 ~~the provisions of s. 633.35~~ and whose duty it is to extinguish
24 fires, to protect life, or to protect property. The term
25 includes all certified supervisory and command personnel of
26 such a department whose duties include, but are not limited
27 to, responsibilities that involve supervision, training,
28 guidance, or management of a full-time firefighter, a
29 part-time firefighter, or an auxiliary firefighter. The term
30 excludes a person who is a part-time firefighter or an
31 auxiliary firefighter. ~~However,~~ For purposes of this chapter

1 only, the term~~"firefighter"~~ also includes public safety
2 officers who are responsible for performing both police and
3 fire services, who are certified as police officers or
4 firefighters, and who are certified by their employers to the
5 Chief Financial Officer as participating in this chapter prior
6 to October 1, 1979. Effective October 1, 1979, public safety
7 officers who have not been certified as participating in this
8 chapter shall be considered police officers for retirement
9 purposes and shall be eligible to participate in chapter 185.
10 Any plan may provide that the fire chief shall have an option
11 to participate, or not, in that plan.

12 Section 2. Paragraph (a) of subsection (1) of section
13 175.061, Florida Statutes, is amended to read:

14 175.061 Board of trustees; members; terms of office;
15 meetings; legal entity; costs; attorney's fees.--For any
16 municipality, special fire control district, chapter plan,
17 local law municipality, local law special fire control
18 district, or local law plan under this chapter:

19 (1) In each municipality and in each special fire
20 control district there is hereby created a board of trustees
21 of the firefighters' pension trust fund, which shall be solely
22 responsible for administering the trust fund. Effective
23 October 1, 1986, and thereafter:

24 (a) The membership of the board of trustees for a
25 chapter plan shall consist of five members, two of whom,
26 unless otherwise prohibited by law, shall be legal residents
27 of the municipality or special fire control district, who
28 shall be appointed by the governing body of the municipality
29 or special fire control district, and two of whom shall be
30 full-time firefighters as defined in s. 175.032 who shall be
31 elected by a majority of the active firefighters who are

1 members of such plan. With respect to any chapter plan or
2 local law plan that, on January 1, 1997, allowed retired
3 firefighters to vote in such elections, retirees may continue
4 to vote in such elections. The fifth member shall be chosen by
5 a majority of the previous four members as provided for
6 herein, and such person's name shall be submitted to the
7 governing body of the municipality or special fire control
8 district. Upon receipt of the fifth person's name, the
9 governing body of the municipality or special fire control
10 district shall, as a ministerial duty, appoint such person to
11 the board of trustees as its fifth member. The fifth member
12 shall have the same rights as each of the other four members
13 appointed or elected as herein provided, shall serve as
14 trustee for a period of 4 ~~2~~ years, and may succeed himself or
15 herself in office. Each resident member shall serve as trustee
16 for a period of 4 ~~2~~ years, unless sooner replaced by the
17 governing body at whose pleasure he or she shall serve, and
18 may succeed himself or herself as a trustee. Each firefighter
19 member shall serve as trustee for a period of 4 ~~2~~ years,
20 unless he or she sooner leaves the employment of the
21 municipality or special fire control district as a
22 firefighter, whereupon a successor shall be chosen in the same
23 manner as an original appointment. Each firefighter may
24 succeed himself or herself in office.

25 Section 3. Subsection (1) of section 175.071, Florida
26 Statutes, is amended to read:

27 175.071 General powers and duties of board of
28 trustees.--For any municipality, special fire control
29 district, chapter plan, local law municipality, local law
30 special fire control district, or local law plan under this
31 chapter:

1 (1) The board of trustees, subject to the fiduciary
2 standards in ss. 112.661 and 518.11 and the code of ethics in
3 part III of chapter 112, may:

4 (a) Invest and reinvest the assets of the
5 firefighters' pension trust fund in annuity and life insurance
6 contracts of life insurance companies in amounts sufficient to
7 provide, in whole or in part, the benefits to which all of the
8 participants in the firefighters' pension trust fund shall be
9 entitled under the provisions of this chapter and pay the
10 initial and subsequent premiums thereon.

11 (b) Invest and reinvest the assets of the
12 firefighters' pension trust fund in any lawful investment as
13 provided in the applicable provisions of s. 215.47(1)-(8),
14 (10), and (16), if the investment is permitted in the written
15 investment policy adopted by the board under part VII of
16 chapter 112.+

17 ~~1. Time or savings accounts of a national bank, a~~
18 ~~state bank insured by the Bank Insurance Fund, or a savings,~~
19 ~~building, and loan association insured by the Savings~~
20 ~~Association Insurance Fund which is administered by the~~
21 ~~Federal Deposit Insurance Corporation or a state or federal~~
22 ~~chartered credit union whose share accounts are insured by the~~
23 ~~National Credit Union Share Insurance Fund.~~

24 ~~2. Obligations of the United States or obligations~~
25 ~~guaranteed as to principal and interest by the government of~~
26 ~~the United States.~~

27 ~~3. Bonds issued by the State of Israel.~~

28 ~~4. Bonds, stocks, or other evidences of indebtedness~~
29 ~~issued or guaranteed by a corporation organized under the laws~~
30 ~~of the United States, any state or organized territory of the~~
31 ~~United States, or the District of Columbia, provided:~~

1 ~~a. The corporation is listed on any one or more of the~~
2 ~~recognized national stock exchanges or on the National Market~~
3 ~~System of the NASDAQ Stock Market and, in the case of bonds~~
4 ~~only, holds a rating in one of the three highest~~
5 ~~classifications by a major rating service; and~~

6 ~~b. The board of trustees shall not invest more than 5~~
7 ~~percent of its assets in the common stock or capital stock of~~
8 ~~any one issuing company, nor shall the aggregate investment in~~
9 ~~any one issuing company exceed 5 percent of the outstanding~~
10 ~~capital stock of that company or the aggregate of its~~
11 ~~investments under this subparagraph at cost exceed 50 percent~~
12 ~~of the assets of the fund.~~

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14 ~~This paragraph shall apply to all boards of trustees and~~
15 ~~participants. However, in the event that a municipality or~~
16 ~~special fire control district has a duly enacted pension plan~~
17 ~~pursuant to, and in compliance with, s. 175.351, and the~~
18 ~~trustees thereof desire to vary the investment procedures~~
19 ~~herein, the trustees of such plan shall request a variance of~~
20 ~~the investment procedures as outlined herein only through a~~
21 ~~municipal ordinance, special act of the Legislature, or~~
22 ~~resolution by the governing body of the special fire control~~
23 ~~district; where a special act, or a municipality by ordinance~~
24 ~~adopted prior to July 1, 1998, permits a greater than~~
25 ~~50 percent equity investment, such municipality shall not be~~
26 ~~required to comply with the aggregate equity investment~~
27 ~~provisions of this paragraph. Notwithstanding any other~~
28 ~~provision of law to the contrary, nothing in this section may~~
29 ~~be construed to take away any preexisting legal authority to~~
30 ~~make equity investments that exceed the requirements of this~~
31

1 ~~paragraph. The board of trustees may invest up to 10 percent~~
2 ~~of plan assets in foreign securities.~~

3 (c) Issue drafts upon the firefighters' pension trust
4 fund pursuant to this act and rules and regulations prescribed
5 by the board of trustees. All such drafts shall be
6 consecutively numbered, be signed by the chair and secretary
7 or two individuals designated by the board, and state upon
8 their faces the purpose for which the drafts are drawn. The
9 treasurer or depository of each municipality or special fire
10 control district shall retain such drafts when paid, as
11 permanent vouchers for disbursements made, and no money shall
12 be otherwise drawn from the fund.

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

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

16 (f) Establish, consistent with the provisions of s.
17 112.044, the maximum age for entrance into the fund. The
18 maximum entry age established by the board pursuant to this
19 paragraph applies notwithstanding another state law to the
20 contrary.

21 Section 4. Paragraph (a) of subsection (1) of section
22 185.05, Florida Statutes, is amended to read:

23 185.05 Board of trustees; members; terms of office;
24 meetings; legal entity; costs; attorney's fees.--For any
25 municipality, chapter plan, local law municipality, or local
26 law plan under this chapter:

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

1 (a) The membership of the board of trustees for
2 chapter plans shall consist of five members, two of whom,
3 unless otherwise prohibited by law, shall be legal residents
4 of the municipality, who shall be appointed by the legislative
5 body of the municipality, and two of whom shall be police
6 officers as defined in s. 185.02 who shall be elected by a
7 majority of the active police officers who are members of such
8 plan. With respect to any chapter plan or local law plan that,
9 on January 1, 1997, allowed retired police officers to vote in
10 such elections, retirees may continue to vote in such
11 elections. The fifth member shall be chosen by a majority of
12 the previous four members, and such person's name shall be
13 submitted to the legislative body of the municipality. Upon
14 receipt of the fifth person's name, the legislative body of
15 the municipality shall, as a ministerial duty, appoint such
16 person to the board of trustees as its fifth member. The
17 fifth member shall have the same rights as each of the other
18 four members appointed or elected as herein provided, shall
19 serve as trustee for a period of 4 ~~2~~ years, and may succeed
20 himself or herself in office. Each resident member shall serve
21 as trustee for a period of 4 ~~2~~ years, unless sooner replaced
22 by the legislative body at whose pleasure the member shall
23 serve, and may succeed himself or herself as a trustee. Each
24 police officer member shall serve as trustee for a period of 4
25 ~~2~~ years, unless he or she sooner leaves the employment of the
26 municipality as a police officer, whereupon the legislative
27 body of the municipality shall choose a successor in the same
28 manner as an original appointment. Each police officer may
29 succeed himself or herself in office.

30 Section 5. Subsection (1) of section 185.06, Florida
31 Statutes, is amended to read:

1 185.06 General powers and duties of board of
2 trustees.--For any municipality, chapter plan, local law
3 municipality, or local law plan under this chapter:

4 (1) The board of trustees may, subject to the
5 fiduciary standards in ss. 112.661 and 518.11 and the code of
6 ethics in part III of chapter 112:

7 (a) Invest and reinvest the assets of the retirement
8 trust fund in annuity and life insurance contracts of life
9 insurance companies in amounts sufficient to provide, in whole
10 or in part, the benefits to which all of the participants in
11 the municipal police officers' retirement trust fund shall be
12 entitled under the provisions of this chapter, and pay the
13 initial and subsequent premiums thereon.

14 (b) Invest and reinvest the assets of the retirement
15 trust fund in any lawful investment as provided in the
16 applicable provisions of s. 215.47(1)-(8), (10), and (16), if
17 the investment is permitted in the written investment policy
18 adopted by the board under part VII of chapter 112.÷

19 ~~1. Time or savings accounts of a national bank, a~~
20 ~~state bank insured by the Bank Insurance Fund, or a savings~~
21 ~~and loan association insured by the Savings Association~~
22 ~~Insurance Fund which is administered by the Federal Deposit~~
23 ~~Insurance Corporation or a state or federal chartered credit~~
24 ~~union whose share accounts are insured by the National Credit~~
25 ~~Union Share Insurance Fund.~~

26 ~~2. Obligations of the United States or obligations~~
27 ~~guaranteed as to principal and interest by the United States.~~

28 ~~3. Bonds issued by the State of Israel.~~

29 ~~4. Bonds, stocks, or other evidences of indebtedness~~
30 ~~issued or guaranteed by a corporation organized under the laws~~
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1 ~~of the United States, any state or organized territory of the~~
2 ~~United States, or the District of Columbia, provided:~~

3 ~~a. The corporation is listed on any one or more of the~~
4 ~~recognized national stock exchanges or on the National Market~~
5 ~~System of the NASDAQ Stock Market and, in the case of bonds~~
6 ~~only, holds a rating in one of the three highest~~
7 ~~classifications by a major rating service; and~~

8 ~~b. The board of trustees shall not invest more than 5~~
9 ~~percent of its assets in the common stock or capital stock of~~
10 ~~any one issuing company, nor shall the aggregate investment in~~
11 ~~any one issuing company exceed 5 percent of the outstanding~~
12 ~~capital stock of the company or the aggregate of its~~
13 ~~investments under this subparagraph at cost exceed 50 percent~~
14 ~~of the fund's assets.~~

15
16 ~~This paragraph shall apply to all boards of trustees and~~
17 ~~participants. However, in the event that a municipality has a~~
18 ~~duly enacted pension plan pursuant to, and in compliance with,~~
19 ~~s. 185.35 and the trustees thereof desire to vary the~~
20 ~~investment procedures herein, the trustees of such plan shall~~
21 ~~request a variance of the investment procedures as outlined~~
22 ~~herein only through a municipal ordinance or special act of~~
23 ~~the Legislature; where a special act, or a municipality by~~
24 ~~ordinance adopted prior to July 1, 1998, permits a greater~~
25 ~~than 50 percent equity investment, such municipality shall not~~
26 ~~be required to comply with the aggregate equity investment~~
27 ~~provisions of this paragraph. Notwithstanding any other~~
28 ~~provision of law to the contrary, nothing in this section may~~
29 ~~be construed to take away any preexisting legal authority to~~
30 ~~make equity investments that exceed the requirements of this~~
31

1 ~~paragraph. The board of trustees may invest up to 10 percent~~
2 ~~of plan assets in foreign securities.~~

3 (c) Issue drafts upon the municipal police officers'
4 retirement trust fund pursuant to this act and rules and
5 regulations prescribed by the board of trustees. All such
6 drafts shall be consecutively numbered, be signed by the chair
7 and secretary or two individuals designated by the board, and
8 state upon their faces the purposes for which the drafts are
9 drawn. The city treasurer or other depository shall retain
10 such drafts when paid, as permanent vouchers for disbursements
11 made, and no money shall otherwise be drawn from the fund.

12 (d) Finally decide all claims to relief under the
13 board's rules and regulations and pursuant to the provisions
14 of this act.

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

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

18 (g) Establish, consistent with the provisions of s.
19 112.044, the maximum age for entrance into the fund. The
20 maximum entry age established by the board pursuant to this
21 paragraph applies notwithstanding another state law to the
22 contrary.

23 Section 6. If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 invalidity does not affect other provisions or applications of
26 the act which can be given effect without the invalid
27 provision or application, and to this end the provisions of
28 this act are severable.

29 Section 7. This act shall take effect upon becoming a
30 law.

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SENATE SUMMARY

Revises provisions governing the managers and management of the firefighters' pension trust fund and the municipal police officers' retirement trust fund. Clarifies that investments of the assets of the funds are subject to certain fiduciary and ethical standards. Authorizes any investment that meets specified criteria. Authorizes certain individuals designated by the board of trustees of each fund to sign drafts upon the fund managed by that board. Directs each board to establish a maximum age for entry into the pension fund managed by that board and provides for application of the age established by the board.