

By the Committee on Governmental Operations; and Senator Wise

585-2428-07

1 A bill to be entitled
2 An act relating to firefighter and municipal
3 police pensions; amending s. 175.032, F.S.;
4 redefining the term "firefighter"; redefining
5 the term "special fire control district" to
6 include certain community development districts
7 performing fire suppression and related
8 services; amending s. 175.061, F.S.;
9 authorizing the terms of office for the board
10 of trustees of the firefighters' pension trust
11 fund to be revised under certain circumstances;
12 authorizing the plan administrator to withhold
13 funds to pay for premiums for accident, health,
14 and long-term care insurance for the retiree
15 and the retiree's spouse and dependents;
16 providing an exemption from liability under
17 certain circumstances; amending s. 175.071,
18 F.S.; requiring the board of trustees to
19 perform its powers subject to certain fiduciary
20 standards and ethics provisions; increasing the
21 percentage of assets of the firefighters'
22 pension trust fund which the board of trustees
23 may invest in foreign securities; authorizing
24 certain individuals to sign drafts issued upon
25 the firefighters' pension trust fund; amending
26 s. 185.05, F.S.; authorizing the terms of
27 office for the board of trustees of the
28 municipal police officers' retirement trust
29 fund to be revised under certain circumstances;
30 authorizing the plan administrator to withhold
31 funds to pay for premiums for accident, health,

1 and long-term care insurance for the retiree
2 and the retiree's spouse and dependents;
3 providing an exemption from liability under
4 certain circumstances; amending s. 185.06,
5 F.S.; requiring the board of trustees to
6 perform its powers subject to certain fiduciary
7 standards and ethics provisions; increasing the
8 percentage of assets of the municipal police
9 officers' retirement trust fund which the board
10 of trustees may invest in foreign securities;
11 authorizing certain individuals to sign drafts
12 issued upon the municipal police officers'
13 retirement trust fund; amending s. 190.011,
14 F.S.; authorizing community development
15 districts to levy the state excise tax on
16 property insurance premiums; providing for
17 severability; providing an effective date.

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

20
21 Section 1. Paragraph (a) of subsection (8) and
22 subsection (16) of section 175.032, Florida Statutes, are
23 amended to read:

24 175.032 Definitions.--For any municipality, special
25 fire control district, chapter plan, local law municipality,
26 local law special fire control district, or local law plan
27 under this chapter, the following words and phrases have the
28 following meanings:

29 (8)(a) "Firefighter" means any person employed solely
30 by a constituted fire department of any municipality or
31 special fire control district who is certified as a

1 firefighter as a condition of employment in accordance with
2 the provisions of s. 633.35 and whose duty it is to extinguish
3 fires, to protect life, or to protect property. "Firefighter"
4 includes all certified supervisory and command personnel whose
5 duties include, in whole or in part, the supervision,
6 training, guidance, and management responsibilities of
7 full-time firefighters, part-time firefighters, or auxiliary
8 firefighters but does not include part-time firefighters or
9 auxiliary firefighters. However, for purposes of this chapter
10 only, "firefighter" also includes public safety officers who
11 are responsible for performing both police and fire services,
12 who are certified as police officers or firefighters, and who
13 are certified by their employers to the Chief Financial
14 Officer as participating in this chapter prior to October 1,
15 1979. Effective October 1, 1979, public safety officers who
16 have not been certified as participating in this chapter shall
17 be considered police officers for retirement purposes and
18 shall be eligible to participate in chapter 185. Any plan may
19 provide that the fire chief shall have an option to
20 participate, or not, in that plan.

21 (16) "Special fire control district" means a special
22 district, as defined in s. 189.403(1), established for the
23 purposes of extinguishing fires, protecting life, and
24 protecting property within the incorporated or unincorporated
25 portions of any county or combination of counties, or within
26 any combination of incorporated and unincorporated portions of
27 any county or combination of counties. The term includes
28 community development districts providing fire suppression and
29 related services pursuant to s. 190.012(2)(b). The term does
30 not include any dependent or independent special district, as
31 defined in s. 189.403(2) and (3), respectively, the employees

1 of which are members of the Florida Retirement System pursuant
2 to s. 121.051(1) or (2).

3 Section 2. Paragraph (a) of subsection (1) and
4 subsection (7) of section 175.061, Florida Statutes, are
5 amended to read:

6 175.061 Board of trustees; members; terms of office;
7 meetings; legal entity; costs; attorney's fees.--For any
8 municipality, special fire control district, chapter plan,
9 local law municipality, local law special fire control
10 district, or local law plan under this chapter:

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

16 (a) The membership of the board of trustees for a
17 chapter plan shall consist of five members, two of whom,
18 unless otherwise prohibited by law, shall be legal residents
19 of the municipality or special fire control district, who
20 shall be appointed by the governing body of the municipality
21 or special fire control district, and two of whom shall be
22 full-time firefighters as defined in s. 175.032 who shall be
23 elected by a majority of the active firefighters who are
24 members of such plan. With respect to any chapter plan or
25 local law plan that, on January 1, 1997, allowed retired
26 firefighters to vote in such elections, retirees may continue
27 to vote in such elections. The fifth member shall be chosen by
28 a majority of the previous four members as provided for
29 herein, and such person's name shall be submitted to the
30 governing body of the municipality or special fire control
31 district. Upon receipt of the fifth person's name, the

1 governing body of the municipality or special fire control
2 district shall, as a ministerial duty, appoint such person to
3 the board of trustees as its fifth member. The fifth member
4 shall have the same rights as each of the other four members
5 appointed or elected as herein provided, shall serve as
6 trustee for a period of 2 years, and may succeed himself or
7 herself in office. Each resident member shall serve as trustee
8 for a period of 2 years, unless sooner replaced by the
9 governing body at whose pleasure he or she shall serve, and
10 may succeed himself or herself as a trustee. Each firefighter
11 member shall serve as trustee for a period of 2 years, unless
12 he or she sooner leaves the employment of the municipality or
13 special fire control district as a firefighter, whereupon a
14 successor shall be chosen in the same manner as an original
15 appointment. Each firefighter may succeed himself or herself
16 in office. The terms of office of the appointed and elected
17 members of the board may be amended by municipal ordinance,
18 special act of the Legislature, or resolution adopted by the
19 governing body of the special fire control district to extend
20 the terms of office from 2 years to 4 years. The length of the
21 terms of office shall be the same for all board members.

22 (7) The board of trustees may, upon written request by
23 the retiree of the plan, or by a dependent, when authorized by
24 the retiree or the retiree's beneficiary, authorize the plan
25 administrator to withhold from the monthly retirement payment
26 those funds that are necessary to pay for the benefits being
27 received through the governmental entity from which the
28 employee retired, to pay the certified bargaining agent of the
29 governmental entity, and to make any payments for child
30 support or alimony. Further, the board of trustees may, upon
31 written request of the retiree of the plan, authorize the plan

1 administrator to withhold from the retirement payment those
2 funds that are necessary to pay for premiums for accident,
3 health, and long-term care insurance for the retiree and the
4 retiree's spouse and dependents. A retirement plan does not
5 incur any liability for participation in this permissive
6 program if its actions are taken in good faith.

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

9 175.071 General powers and duties of board of
10 trustees.--For any municipality, special fire control
11 district, chapter plan, local law municipality, local law
12 special fire control district, or local law plan under this
13 chapter:

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

17 (a) Invest and reinvest the assets of the
18 firefighters' pension trust fund in annuity and life insurance
19 contracts of life insurance companies in amounts sufficient to
20 provide, in whole or in part, the benefits to which all of the
21 participants in the firefighters' pension trust fund shall be
22 entitled under the provisions of this chapter and pay the
23 initial and subsequent premiums thereon.

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

26 1. Time or savings accounts of a national bank, a
27 state bank insured by the Bank Insurance Fund, or a savings,
28 building, and loan association insured by the Savings
29 Association Insurance Fund which is administered by the
30 Federal Deposit Insurance Corporation or a state or federal
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1 chartered credit union whose share accounts are insured by the
2 National Credit Union Share Insurance Fund.

3 2. Obligations of the United States or obligations
4 guaranteed as to principal and interest by the government of
5 the United States.

6 3. Bonds issued by the State of Israel.

7 4. Bonds, stocks, or other evidences of indebtedness
8 issued or guaranteed by a corporation organized under the laws
9 of the United States, any state or organized territory of the
10 United States, or the District of Columbia, provided:

11 a. The corporation is listed on any one or more of the
12 recognized national stock exchanges or on the National Market
13 System of the NASDAQ Stock Market and, in the case of bonds
14 only, holds a rating in one of the three highest
15 classifications by a major rating service; and

16 b. The board of trustees shall not invest more than 5
17 percent of its assets in the common stock or capital stock of
18 any one issuing company, nor shall the aggregate investment in
19 any one issuing company exceed 5 percent of the outstanding
20 capital stock of that company or the aggregate of its
21 investments under this subparagraph at cost exceed 50 percent
22 of the assets of the fund.

23
24 This paragraph shall apply to all boards of trustees and
25 participants. However, in the event that a municipality or
26 special fire control district has a duly enacted pension plan
27 pursuant to, and in compliance with, s. 175.351, and the
28 trustees thereof desire to vary the investment procedures
29 herein, the trustees of such plan shall request a variance of
30 the investment procedures as outlined herein only through a
31 municipal ordinance, special act of the Legislature, or

1 resolution by the governing body of the special fire control
2 district; where a special act, or a municipality by ordinance
3 adopted prior to July 1, 1998, permits a greater than
4 50-percent equity investment, such municipality shall not be
5 required to comply with the aggregate equity investment
6 provisions of this paragraph. Notwithstanding any other
7 provision of law to the contrary, nothing in this section may
8 be construed to take away any preexisting legal authority to
9 make equity investments that exceed the requirements of this
10 paragraph. The board of trustees may invest up to 20 ~~10~~
11 percent of plan assets in foreign securities.

12 (c) Issue drafts upon the firefighters' pension trust
13 fund pursuant to this act and rules and regulations prescribed
14 by the board of trustees. All such drafts shall be
15 consecutively numbered, be signed by the chair and secretary
16 or two individuals designated by the board who are subject to
17 the same fiduciary standards as required for the board of
18 trustees under this subsection, and state upon their faces the
19 purpose for which the drafts are drawn. The treasurer or
20 depository of each municipality or special fire control
21 district shall retain such drafts when paid, as permanent
22 vouchers for disbursements made, and no money shall be
23 otherwise drawn from the fund.

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

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

27 Section 4. Paragraph (a) of subsection (1) and
28 subsection (6) of section 185.05, Florida Statutes, are
29 amended to read:

30 185.05 Board of trustees; members; terms of office;
31 meetings; legal entity; costs; attorney's fees.--For any

1 | municipality, chapter plan, local law municipality, or local
2 | law plan under this chapter:

3 | (1) In each municipality described in s. 185.03 there
4 | is hereby created a board of trustees of the municipal police
5 | officers' retirement trust fund, which shall be solely
6 | responsible for administering the trust fund. Effective
7 | October 1, 1986, and thereafter:

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

1 unless he or she sooner leaves the employment of the
2 municipality as a police officer, whereupon the legislative
3 body of the municipality shall choose a successor in the same
4 manner as an original appointment. Each police officer may
5 succeed himself or herself in office. The terms of office of
6 the appointed and elected members of the board may be amended
7 by municipal ordinance or special act of the Legislature to
8 extend the terms of office from 2 years to 4 years. The length
9 of the terms of office shall be the same for all board
10 members.

11 (6) The board of trustees may, upon written request by
12 the retiree of the plan, or by a dependent, when authorized by
13 the retiree or the retiree's beneficiary, authorize the plan
14 administrator to withhold from the monthly retirement payment
15 those funds that are necessary to pay for the benefits being
16 received through the governmental entity from which the
17 employee retired, to pay the certified bargaining agent of the
18 governmental entity, and to make any payments for child
19 support or alimony. Further, the board of trustees may, upon
20 written request of the retiree of the plan, authorize the plan
21 administrator to withhold from the retirement payment those
22 funds that are necessary to pay for premiums for accident,
23 health, and long-term care insurance for the retiree and the
24 retiree's spouse and dependents. A retirement plan does not
25 incur any liability for participation in this permissive
26 program if its actions are taken in good faith.

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

29 185.06 General powers and duties of board of
30 trustees.--For any municipality, chapter plan, local law
31 municipality, or local law plan under this chapter:

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

4 (a) Invest and reinvest the assets of the retirement
5 trust fund in annuity and life insurance contracts of life
6 insurance companies in amounts sufficient to provide, in whole
7 or in part, the benefits to which all of the participants in
8 the municipal police officers' retirement 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 retirement
12 trust fund in:

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

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

22 3. Bonds issued by the State of Israel.

23 4. Bonds, stocks, or other evidences of indebtedness
24 issued or guaranteed by a corporation organized under the laws
25 of the United States, any state or organized territory of the
26 United States, or the District of Columbia, provided:

27 a. The corporation is listed on any one or more of the
28 recognized national stock exchanges or on the National Market
29 System of the NASDAQ Stock Market and, in the case of bonds
30 only, holds a rating in one of the three highest
31 classifications by a major rating service; and

1 b. The board of trustees shall not invest more than 5
2 percent of its assets in the common stock or capital stock of
3 any one issuing company, nor shall the aggregate investment in
4 any one issuing company exceed 5 percent of the outstanding
5 capital stock of the company or the aggregate of its
6 investments under this subparagraph at cost exceed 50 percent
7 of the fund's assets.

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9 This paragraph shall apply to all boards of trustees and
10 participants. However, in the event that a municipality has a
11 duly enacted pension plan pursuant to, and in compliance with,
12 s. 185.35 and the trustees thereof desire to vary the
13 investment procedures herein, the trustees of such plan shall
14 request a variance of the investment procedures as outlined
15 herein only through a municipal ordinance or special act of
16 the Legislature; where a special act, or a municipality by
17 ordinance adopted prior to July 1, 1998, permits a greater
18 than 50-percent equity investment, such municipality shall not
19 be required to comply with the aggregate equity investment
20 provisions of this paragraph. Notwithstanding any other
21 provision of law to the contrary, nothing in this section may
22 be construed to take away any preexisting legal authority to
23 make equity investments that exceed the requirements of this
24 paragraph. The board of trustees may invest up to 20 ~~10~~
25 percent of plan assets in foreign securities.

26 (c) Issue drafts upon the municipal police officers'
27 retirement trust fund pursuant to this act and rules and
28 regulations prescribed by the board of trustees. All such
29 drafts shall be consecutively numbered, be signed by the chair
30 and secretary or two individuals designated by the board who
31 are subject to the same fiduciary standards as required for

1 the board of trustees under this subsection, and state upon
2 their faces the purposes for which the drafts are drawn. The
3 city treasurer or other depository shall retain such drafts
4 when paid, as permanent vouchers for disbursements made, and
5 no money shall otherwise be drawn from the fund.

6 (d) Finally decide all claims to relief under the
7 board's rules and regulations and pursuant to the provisions
8 of this act.

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

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

12 Section 6. Subsection (17) is added to section
13 190.011, Florida Statutes, to read:

14 190.011 General powers.--The district shall have, and
15 the board may exercise, the following powers:

16 (17) To assess and impose the state excise tax
17 authorized under s. 175.101, if exercising the powers
18 permitted under s. 190.012(2)(b).

19 Section 7. If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 invalidity does not affect other provisions or applications of
22 the act which can be given effect without the invalid
23 provision or application, and to this end the provisions of
24 this act are severable.

25 Section 8. This act shall take effect upon becoming a
26 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 198

The Committee Substitute combines a number of separate amendments to redefine the term "firefighter" to include designated line as well as command and supervisory personnel; the inclusion of community development districts as special fire control districts; modification of the terms of office of firefighter pension plan trustees from two to four years; authorization of supplemental post-retirement insurance benefits through payroll deduction; and specific reference to enumerated Florida Statutes that provide statements on fiduciary duty and ethics for plan trustees; and permissive designation of additional board of trustee members who are authorized to sign drafts. The bill also permits the imposition of the insurance premium tax by community development districts that are also special fire control districts if they choose to create their own pension plan.