

HB 3

2007

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

27  
28   Be It Enacted by the Legislature of the State of Florida:

Page 1 of 12

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0003-00

HB 3

2007

29

30 Section 1. Paragraph (a) of subsection (8) of section  
31 175.032, Florida Statutes, is amended to read:

32 175.032 Definitions.--For any municipality, special fire  
33 control district, chapter plan, local law municipality, local  
34 law special fire control district, or local law plan under this  
35 chapter, the following words and phrases have the following  
36 meanings:

37 (8) (a) "Firefighter" means any person employed solely by a  
38 constituted fire department of any municipality or special fire  
39 control district who is certified as a firefighter as a  
40 condition of employment in accordance with the provisions of s.  
41 633.35 and whose duty it is to extinguish fires, to protect  
42 life, or to protect property. "Firefighter" includes all  
43 certified supervisory and command personnel whose duties  
44 include, in whole or in part, the supervision, training,  
45 guidance, and management responsibilities of full-time  
46 firefighters, part-time firefighters, or auxiliary firefighters  
47 but does not include part-time firefighters or auxiliary  
48 firefighters. However, for purposes of this chapter only,  
49 "firefighter" also includes public safety officers who are  
50 responsible for performing both police and fire services, who  
51 are certified as police officers or firefighters, and who are  
52 certified by their employers to the Chief Financial Officer as  
53 participating in this chapter prior to October 1, 1979.  
54 Effective October 1, 1979, public safety officers who have not  
55 been certified as participating in this chapter shall be  
56 considered police officers for retirement purposes and shall be

HB 3

2007

57 eligible to participate in chapter 185. Any plan may provide  
58 that the fire chief shall have an option to participate, or not,  
59 in that plan.

60 Section 2. Paragraph (a) of subsection (1) of section  
61 175.061, Florida Statutes, is amended to read:

62 175.061 Board of trustees; members; terms of office;  
63 meetings; legal entity; costs; attorney's fees.--For any  
64 municipality, special fire control district, chapter plan, local  
65 law municipality, local law special fire control district, or  
66 local law plan under this chapter:

67 (1) In each municipality and in each special fire control  
68 district there is hereby created a board of trustees of the  
69 firefighters' pension trust fund, which shall be solely  
70 responsible for administering the trust fund. Effective October  
71 1, 1986, and thereafter:

72 (a) The membership of the board of trustees for a chapter  
73 plan shall consist of five members, two of whom, unless  
74 otherwise prohibited by law, shall be legal residents of the  
75 municipality or special fire control district, who shall be  
76 appointed by the governing body of the municipality or special  
77 fire control district, and two of whom shall be full-time  
78 firefighters as defined in s. 175.032 who shall be elected by a  
79 majority of the active firefighters who are members of such  
80 plan. With respect to any chapter plan or local law plan that,  
81 on January 1, 1997, allowed retired firefighters to vote in such  
82 elections, retirees may continue to vote in such elections. The  
83 fifth member shall be chosen by a majority of the previous four  
84 members as provided for herein, and such person's name shall be

HB 3

2007

85 submitted to the governing body of the municipality or special  
86 fire control district. Upon receipt of the fifth person's name,  
87 the governing body of the municipality or special fire control  
88 district shall, as a ministerial duty, appoint such person to  
89 the board of trustees as its fifth member. The fifth member  
90 shall have the same rights as each of the other four members  
91 appointed or elected as herein provided, shall serve as trustee  
92 for a period of 2 years, and may succeed himself or herself in  
93 office. Each resident member shall serve as trustee for a period  
94 of 2 years, unless sooner replaced by the governing body at  
95 whose pleasure he or she shall serve, and may succeed himself or  
96 herself as a trustee. Each firefighter member shall serve as  
97 trustee for a period of 2 years, unless he or she sooner leaves  
98 the employment of the municipality or special fire control  
99 district as a firefighter, whereupon a successor shall be chosen  
100 in the same manner as an original appointment. Each firefighter  
101 may succeed himself or herself in office. The terms of office of  
102 the appointed and elected members of the board may be amended by  
103 municipal ordinance, special act of the Legislature, or  
104 resolution adopted by the governing body of the special fire  
105 control district to extend the terms of office from 2 years to 4  
106 years. The length of the terms of office shall be the same for  
107 all board members.

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

110 175.071 General powers and duties of board of  
111 trustees.--For any municipality, special fire control district,

112 chapter plan, local law municipality, local law special fire  
 113 control district, or local law plan under this chapter:

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

117 (a) Invest and reinvest the assets of the firefighters'  
 118 pension trust fund in annuity and life insurance contracts of  
 119 life insurance companies in amounts sufficient to provide, in  
 120 whole or in part, the benefits to which all of the participants  
 121 in the firefighters' pension trust fund shall be entitled under  
 122 the provisions of this chapter and pay the initial and  
 123 subsequent premiums thereon.

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

126 1. Time or savings accounts of a national bank, a state  
 127 bank insured by the Bank Insurance Fund, or a savings, building,  
 128 and loan association insured by the Savings Association  
 129 Insurance Fund which is administered by the Federal Deposit  
 130 Insurance Corporation or a state or federal chartered credit  
 131 union whose share accounts are insured by the National Credit  
 132 Union Share Insurance Fund.

133 2. Obligations of the United States or obligations  
 134 guaranteed as to principal and interest by the government of the  
 135 United States.

136 3. Bonds issued by the State of Israel.

137 4. Bonds, stocks, or other evidences of indebtedness  
 138 issued or guaranteed by a corporation organized under the laws

HB 3

2007

139 of the United States, any state or organized territory of the  
 140 United States, or the District of Columbia, provided:

141 a. The corporation is listed on any one or more of the  
 142 recognized national stock exchanges or on the National Market  
 143 System of the NASDAQ Stock Market and, in the case of bonds  
 144 only, holds a rating in one of the three highest classifications  
 145 by a major rating service; and

146 b. The board of trustees shall not invest more than 5  
 147 percent of its assets in the common stock or capital stock of  
 148 any one issuing company, nor shall the aggregate investment in  
 149 any one issuing company exceed 5 percent of the outstanding  
 150 capital stock of that company or the aggregate of its  
 151 investments under this subparagraph at cost exceed 50 percent of  
 152 the assets of the fund.

153  
 154 This paragraph shall apply to all boards of trustees and  
 155 participants. However, in the event that a municipality or  
 156 special fire control district has a duly enacted pension plan  
 157 pursuant to, and in compliance with, s. 175.351, and the  
 158 trustees thereof desire to vary the investment procedures  
 159 herein, the trustees of such plan shall request a variance of  
 160 the investment procedures as outlined herein only through a  
 161 municipal ordinance, special act of the Legislature, or  
 162 resolution by the governing body of the special fire control  
 163 district; where a special act, or a municipality by ordinance  
 164 adopted prior to July 1, 1998, permits a greater than 50-percent  
 165 equity investment, such municipality shall not be required to  
 166 comply with the aggregate equity investment provisions of this

HB 3

2007

167 paragraph. Notwithstanding any other provision of law to the  
 168 contrary, nothing in this section may be construed to take away  
 169 any preexisting legal authority to make equity investments that  
 170 exceed the requirements of this paragraph. The board of trustees  
 171 may invest up to 20 ~~10~~ percent of plan assets in foreign  
 172 securities.

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

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

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

187 Section 4. Paragraph (a) of subsection (1) of section  
 188 185.05, Florida Statutes, is amended to read:

189 185.05 Board of trustees; members; terms of office;  
 190 meetings; legal entity; costs; attorney's fees.--For any  
 191 municipality, chapter plan, local law municipality, or local law  
 192 plan under this chapter:

193 (1) In each municipality described in s. 185.03 there is  
 194 hereby created a board of trustees of the municipal police

HB 3

2007

195 officers' retirement trust fund, which shall be solely  
196 responsible for administering the trust fund. Effective October  
197 1, 1986, and thereafter:

198 (a) The membership of the board of trustees for chapter  
199 plans shall consist of five members, two of whom, unless  
200 otherwise prohibited by law, shall be legal residents of the  
201 municipality, who shall be appointed by the legislative body of  
202 the municipality, and two of whom shall be police officers as  
203 defined in s. 185.02 who shall be elected by a majority of the  
204 active police officers who are members of such plan. With  
205 respect to any chapter plan or local law plan that, on January  
206 1, 1997, allowed retired police officers to vote in such  
207 elections, retirees may continue to vote in such elections. The  
208 fifth member shall be chosen by a majority of the previous four  
209 members, and such person's name shall be submitted to the  
210 legislative body of the municipality. Upon receipt of the fifth  
211 person's name, the legislative body of the municipality shall,  
212 as a ministerial duty, appoint such person to the board of  
213 trustees as its fifth member. The fifth member shall have the  
214 same rights as each of the other four members appointed or  
215 elected as herein provided, shall serve as trustee for a period  
216 of 2 years, and may succeed himself or herself in office. Each  
217 resident member shall serve as trustee for a period of 2 years,  
218 unless sooner replaced by the legislative body at whose pleasure  
219 the member shall serve, and may succeed himself or herself as a  
220 trustee. Each police officer member shall serve as trustee for a  
221 period of 2 years, unless he or she sooner leaves the employment  
222 of the municipality as a police officer, whereupon the



HB 3

2007

223 legislative body of the municipality shall choose a successor in  
 224 the same manner as an original appointment. Each police officer  
 225 may succeed himself or herself in office. The terms of office of  
 226 the appointed and elected members of the board may be amended by  
 227 municipal ordinance or special act of the Legislature to extend  
 228 the terms of office from 2 years to 4 years. The length of the  
 229 terms of office shall be the same for all board members.

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

232 185.06 General powers and duties of board of  
 233 trustees.--For any municipality, chapter plan, local law  
 234 municipality, or local law plan under this chapter:

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

238 (a) Invest and reinvest the assets of the retirement trust  
 239 fund in annuity and life insurance contracts of life insurance  
 240 companies in amounts sufficient to provide, in whole or in part,  
 241 the benefits to which all of the participants in the municipal  
 242 police officers' retirement trust fund shall be entitled under  
 243 the provisions of this chapter, and pay the initial and  
 244 subsequent premiums thereon.

245 (b) Invest and reinvest the assets of the retirement trust  
 246 fund in:

247 1. Time or savings accounts of a national bank, a state  
 248 bank insured by the Bank Insurance Fund, or a savings and loan  
 249 association insured by the Savings Association Insurance Fund  
 250 which is administered by the Federal Deposit Insurance

HB 3

2007

251 Corporation or a state or federal chartered credit union whose  
 252 share accounts are insured by the National Credit Union Share  
 253 Insurance Fund.

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

256 3. Bonds issued by the State of Israel.

257 4. Bonds, stocks, or other evidences of indebtedness  
 258 issued or guaranteed by a corporation organized under the laws  
 259 of the United States, any state or organized territory of the  
 260 United States, or the District of Columbia, provided:

261 a. The corporation is listed on any one or more of the  
 262 recognized national stock exchanges or on the National Market  
 263 System of the NASDAQ Stock Market and, in the case of bonds  
 264 only, holds a rating in one of the three highest classifications  
 265 by a major rating service; and

266 b. The board of trustees shall not invest more than 5  
 267 percent of its assets in the common stock or capital stock of  
 268 any one issuing company, nor shall the aggregate investment in  
 269 any one issuing company exceed 5 percent of the outstanding  
 270 capital stock of the company or the aggregate of its investments  
 271 under this subparagraph at cost exceed 50 percent of the fund's  
 272 assets.

273  
 274 This paragraph shall apply to all boards of trustees and  
 275 participants. However, in the event that a municipality has a  
 276 duly enacted pension plan pursuant to, and in compliance with,  
 277 s. 185.35 and the trustees thereof desire to vary the investment  
 278 procedures herein, the trustees of such plan shall request a

279 variance of the investment procedures as outlined herein only  
 280 through a municipal ordinance or special act of the Legislature;  
 281 where a special act, or a municipality by ordinance adopted  
 282 prior to July 1, 1998, permits a greater than 50-percent equity  
 283 investment, such municipality shall not be required to comply  
 284 with the aggregate equity investment provisions of this  
 285 paragraph. Notwithstanding any other provision of law to the  
 286 contrary, nothing in this section may be construed to take away  
 287 any preexisting legal authority to make equity investments that  
 288 exceed the requirements of this paragraph. The board of trustees  
 289 may invest up to 20 ~~10~~ percent of plan assets in foreign  
 290 securities.

291 (c) Issue drafts upon the municipal police officers'  
 292 retirement trust fund pursuant to this act and rules and  
 293 regulations prescribed by the board of trustees. All such drafts  
 294 shall be consecutively numbered, be signed by the chair and  
 295 secretary or two individuals designated by the board who are  
 296 subject to the same fiduciary standards as required for the  
 297 board of trustees under this subsection, and state upon their  
 298 faces the purposes for which the drafts are drawn. The city  
 299 treasurer or other depository shall retain such drafts when  
 300 paid, as permanent vouchers for disbursements made, and no money  
 301 shall otherwise be drawn from the fund.

302 (d) Finally decide all claims to relief under the board's  
 303 rules and regulations and pursuant to the provisions of this  
 304 act.

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

HB 3

2007

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

308 Section 6. If any provision of this act or its application  
309 to any person or circumstance is held invalid, the invalidity  
310 does not affect other provisions or applications of the act  
311 which can be given effect without the invalid provision or  
312 application, and to this end the provisions of this act are  
313 severable.

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