

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 "creditable service" for purposes of
5 determining credit for prior service as a firefighter;
6 revising the definition of "firefighter"; amending s.
7 175.061, F.S.; authorizing the terms of office for the
8 board of trustees of the firefighters' pension trust fund
9 to be revised under certain circumstances; authorizing the
10 firefighters' pension trust fund plan administrator to
11 withhold funds to pay for premiums for accident, health,
12 and long-term care insurance for the retiree and the
13 retiree's spouse and dependents; providing an exemption
14 from liability under certain circumstances; amending s.
15 175.071, F.S.; requiring the board of trustees to perform
16 its powers subject to certain fiduciary standards and
17 ethics provisions; authorizing the use of additional
18 investment policy guidelines; increasing the percentage of
19 assets of the firefighters' pension trust fund that the
20 board of trustees may invest in foreign securities;
21 authorizing certain individuals to sign drafts issued upon
22 the firefighters' pension trust fund; amending s. 175.091,
23 F.S.; providing guidelines for the adjustment of
24 firefighter member contribution rates; amending s.
25 175.101, F.S.; clarifying boundaries of a special fire
26 control district for purposes of assessment and imposition
27 of the excise tax on property insurance premiums; amending
28 s. 175.1015, F.S.; providing that the review for

29 compliance with certain excise tax reporting and remitting
30 requirements shall be performed by the Office of Insurance
31 Regulation of the Financial Services Commission; providing
32 notice requirements; amending s. 175.151, F.S.; revising
33 notification procedures with respect to the failure to
34 comply with the provisions of chapter 175; amending s.
35 175.171, F.S.; authorizing retired firefighters to change
36 their designation of joint annuitant or beneficiary up to
37 two times without the approval of the board of trustees or
38 the prior joint annuitant or beneficiary; amending s.
39 175.361, F.S.; revising fund distribution procedures with
40 respect to plan termination; providing that the Department
41 of Management Services shall effect the termination of the
42 fund; amending s. 185.02, F.S.; revising the definition of
43 "creditable service" for purposes of determining credit
44 for prior service as a police officer; amending s. 185.05,
45 F.S.; revising municipal police officers' retirement trust
46 fund board of trustee selection procedures; authorizing
47 the terms of office for the board of trustees of the
48 municipal police officers' retirement trust fund to be
49 revised under certain circumstances; authorizing the plan
50 administrator to withhold funds to pay for premiums for
51 accident, health, and long-term care insurance for the
52 retiree and the retiree's spouse and dependents; providing
53 an exemption from liability under certain circumstances;
54 amending s. 185.06, F.S.; requiring the board of trustees
55 to perform its powers subject to certain fiduciary
56 standards and ethics provisions; authorizing the use of

57 additional investment policy guidelines; increasing the
58 percentage of assets of the municipal police officers'
59 retirement trust fund that the board of trustees may
60 invest in foreign securities; authorizing certain
61 individuals to sign drafts issued upon the municipal
62 police officers' retirement trust fund; amending s.
63 185.07, F.S.; providing guidelines for the adjustment of
64 police officer member contribution rates; amending s.
65 185.085, F.S.; providing that the review for compliance
66 with certain excise tax reporting and remitting
67 requirements shall be performed by the Office of Insurance
68 Regulation of the Financial Services Commission; providing
69 notice requirements; amending s. 185.13, F.S.; revising
70 notification procedures with respect to the failure to
71 comply with the provisions of chapter 185; amending s.
72 185.161, F.S.; authorizing retired police officers to
73 change their designation of joint annuitant or beneficiary
74 up to two times without the approval of the board of
75 trustees or the prior joint annuitant or beneficiary;
76 amending s. 185.37, F.S.; revising fund distribution
77 procedures with respect to plan termination; providing
78 that the Department of Management Services shall effect
79 the termination of the fund; providing an effective date.

80
81 Be It Enacted by the Legislature of the State of Florida:
82

83 Section 1. Paragraph (c) of subsection (4) and paragraph
 84 (a) of subsection (8) of section 175.032, Florida Statutes, are
 85 amended to read:

86 175.032 Definitions.--For any municipality, special fire
 87 control district, chapter plan, local law municipality, local
 88 law special fire control district, or local law plan under this
 89 chapter, the following words and phrases have the following
 90 meanings:

91 (4) "Creditable service" or "credited service" means the
 92 aggregate number of years of service, and fractional parts of
 93 years of service, of any firefighter, omitting intervening years
 94 and fractional parts of years when such firefighter may not have
 95 been employed by the municipality or special fire control
 96 district, subject to the following conditions:

97 (c) Credited service under this chapter shall be provided
 98 only for service as a firefighter, as defined in subsection (8),
 99 or for military service and shall not include credit for any
 100 other type of service. A municipality may, by local ordinance,
 101 or a special fire control district may, by resolution, provide
 102 for the purchase of credit for military service prior to
 103 employment as well as for prior service as a firefighter for
 104 some other employer as long as a firefighter is not entitled to
 105 receive a benefit for such other prior service as a firefighter.
 106 For purposes of determining credit for prior service as a
 107 firefighter, in addition to service as a firefighter in this
 108 state, credit may be given for federal, other state, or county
 109 service, as long as such prior firefighter service is recognized
 110 by the Division of State Fire Marshal as provided under chapter

HB 171

2008

111 633. The firefighter shall provide proof to the board of
112 trustees that such service is equivalent to the definition of
113 firefighter under subsection (8).

114 (8)(a) "Firefighter" means any person employed solely by a
115 constituted fire department of any municipality or special fire
116 control district who is certified as a firefighter as a
117 condition of employment in accordance with the provisions of s.
118 633.35 and whose duty it is to extinguish fires, to protect
119 life, or to protect property. "Firefighter" includes all
120 certified supervisory and command personnel whose duties
121 include, in whole or in part, the supervision, training,
122 guidance, and management responsibilities of full-time
123 firefighters, part-time firefighters, or auxiliary firefighters
124 but does not include part-time firefighters or auxiliary
125 firefighters. However, for purposes of this chapter only,
126 "firefighter" also includes public safety officers who are
127 responsible for performing both police and fire services, who
128 are certified as police officers or firefighters, and who are
129 certified by their employers to the Chief Financial Officer as
130 participating in this chapter prior to October 1, 1979.
131 Effective October 1, 1979, public safety officers who have not
132 been certified as participating in this chapter shall be
133 considered police officers for retirement purposes and shall be
134 eligible to participate in chapter 185. Any plan may provide
135 that the fire chief shall have an option to participate, or not,
136 in that plan.

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

139 175.061 Board of trustees; members; terms of office;
 140 meetings; legal entity; costs; attorney's fees.--For any
 141 municipality, special fire control district, chapter plan, local
 142 law municipality, local law special fire control district, or
 143 local law plan under this chapter:

144 (1) In each municipality and in each special fire control
 145 district there is hereby created a board of trustees of the
 146 firefighters' pension trust fund, which shall be solely
 147 responsible for administering the trust fund. Effective October
 148 1, 1986, and thereafter:

149 (a) The membership of the board of trustees for a chapter
 150 plan shall consist of five members, two of whom, unless
 151 otherwise prohibited by law, shall be legal residents of the
 152 municipality or special fire control district, who shall be
 153 appointed by the governing body of the municipality or special
 154 fire control district, and two of whom shall be full-time
 155 firefighters as defined in s. 175.032 who shall be elected by a
 156 majority of the active firefighters who are members of such
 157 plan. With respect to any chapter plan or local law plan that,
 158 on January 1, 1997, allowed retired firefighters to vote in such
 159 elections, retirees may continue to vote in such elections. The
 160 fifth member shall be chosen by a majority of the previous four
 161 members as provided for herein, and such person's name shall be
 162 submitted to the governing body of the municipality or special
 163 fire control district. Upon receipt of the fifth person's name,
 164 the governing body of the municipality or special fire control
 165 district shall, as a ministerial duty, appoint such person to
 166 the board of trustees as its fifth member. The fifth member

HB 171

2008

167 shall have the same rights as each of the other four members
168 appointed or elected as herein provided, shall serve as trustee
169 for a period of 2 years, and may succeed himself or herself in
170 office. Each resident member shall serve as trustee for a period
171 of 2 years, unless sooner replaced by the governing body at
172 whose pleasure he or she shall serve, and may succeed himself or
173 herself as a trustee. Each firefighter member shall serve as
174 trustee for a period of 2 years, unless he or she sooner leaves
175 the employment of the municipality or special fire control
176 district as a firefighter, whereupon a successor shall be chosen
177 in the same manner as an original appointment. Each firefighter
178 may succeed himself or herself in office. The terms of office of
179 the appointed and elected members of the board may be amended by
180 municipal ordinance, special act of the Legislature, or
181 resolution adopted by the governing body of the special fire
182 control district to extend the terms of office from 2 years to 4
183 years. The length of the terms of office shall be the same for
184 all board members.

185 (7) The board of trustees may, upon written request by the
186 retiree of the plan, or by a dependent, when authorized by the
187 retiree or the retiree's beneficiary, authorize the plan
188 administrator to withhold from the monthly retirement payment
189 those funds that are necessary to pay for the benefits being
190 received through the governmental entity from which the employee
191 retired, to pay the certified bargaining agent of the
192 governmental entity, and to make any payments for child support
193 or alimony. Further, the board of trustees may, upon the written
194 request of the retiree of the plan, authorize the plan

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

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

203 175.071 General powers and duties of board of
 204 trustees.--For any municipality, special fire control district,
 205 chapter plan, local law municipality, local law special fire
 206 control district, or local law plan under this chapter:

207 (1) The board of trustees, subject to the fiduciary
 208 standards in ss. 112.656, 112.661, and 518.11 and the Code of
 209 Ethics in ss. 112.311-112.3187, may utilize the investment
 210 policy guidelines provided in s. 112.661(5) or:

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

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

220 1. Time or savings accounts of a national bank, a state
 221 bank insured by the Bank Insurance Fund, or a savings, building,
 222 and loan association insured by the Savings Association

223 Insurance Fund which is administered by the Federal Deposit
 224 Insurance Corporation or a state or federal chartered credit
 225 union whose share accounts are insured by the National Credit
 226 Union Share Insurance Fund.

227 2. Obligations of the United States or obligations
 228 guaranteed as to principal and interest by the government of the
 229 United States.

230 3. Bonds issued by the State of Israel.

231 4. Bonds, stocks, or other evidences of indebtedness
 232 issued or guaranteed by a corporation organized under the laws
 233 of the United States, any state or organized territory of the
 234 United States, or the District of Columbia, provided:

235 a. The corporation is listed on any one or more of the
 236 recognized national stock exchanges or on the National Market
 237 System of the NASDAQ Stock Market and, in the case of bonds
 238 only, holds a rating in one of the three highest classifications
 239 by a major rating service; and

240 b. The board of trustees shall not invest more than 5
 241 percent of its assets in the common stock or capital stock of
 242 any one issuing company, nor shall the aggregate investment in
 243 any one issuing company exceed 5 percent of the outstanding
 244 capital stock of that company or the aggregate of its
 245 investments under this subparagraph at cost exceed 50 percent of
 246 the assets of the fund.

247
 248 This paragraph shall apply to all boards of trustees and
 249 participants. However, in the event that a municipality or
 250 special fire control district has a duly enacted pension plan

251 pursuant to, and in compliance with, s. 175.351, and the
 252 trustees thereof desire to vary the investment procedures
 253 herein, the trustees of such plan shall request a variance of
 254 the investment procedures as outlined herein only through a
 255 municipal ordinance, special act of the Legislature, or
 256 resolution by the governing body of the special fire control
 257 district; where a special act, or a municipality by ordinance
 258 adopted prior to July 1, 1998, permits a greater than 50-percent
 259 equity investment, such municipality shall not be required to
 260 comply with the aggregate equity investment provisions of this
 261 paragraph. Notwithstanding any other provision of law to the
 262 contrary, nothing in this section may be construed to take away
 263 any preexisting legal authority to make equity investments that
 264 exceed the requirements of this paragraph. The board of trustees
 265 may invest up to 20 ~~10~~ percent of plan assets in foreign
 266 securities.

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

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

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

281 Section 4. Paragraph (b) of subsection (2) of section
 282 175.091, Florida Statutes, is amended to read:

283 175.091 Creation and maintenance of fund.--For any
 284 municipality, special fire control district, chapter plan, local
 285 law municipality, local law special fire control district, or
 286 local law plan under this chapter:

287 (2) Member contribution rates may be adjusted as follows:

288 (b) Firefighter member contributions may be increased by
 289 consent of the members' collective bargaining representative or,
 290 if none, by majority consent of firefighter members of the fund
 291 to provide greater benefits. Such increases in the firefighters'
 292 contributions may be less but shall not exceed the percent of
 293 payroll increase identified in the actuarial impact statement
 294 provided in conjunction with the pension benefit improvement as
 295 required under s. 112.63.

296
 297 Nothing in this section shall be construed to require adjustment
 298 of member contribution rates in effect on the date this act
 299 becomes a law, including rates that exceed 5 percent of salary,
 300 provided that such rates are at least one-half of 1 percent of
 301 salary.

302 Section 5. Subsection (1) of section 175.101, Florida
 303 Statutes, is amended to read:

304 175.101 State excise tax on property insurance premiums
 305 authorized; procedure.--For any municipality, special fire
 306 control district, chapter plan, local law municipality, local

HB 171

2008

307 law special fire control district, or local law plan under this
308 chapter:

309 (1) Each municipality or special fire control district in
310 this state described and classified in s. 175.041, having a
311 lawfully established firefighters' pension trust fund or
312 municipal fund or special fire control district fund, by
313 whatever name known, providing pension benefits to firefighters
314 as provided under this chapter, may assess and impose on every
315 insurance company, corporation, or other insurer now engaged in
316 or carrying on, or who shall hereinafter engage in or carry on,
317 the business of property insurance as shown by the records of
318 the Office of Insurance Regulation of the Financial Services
319 Commission an excise tax in addition to any lawful license or
320 excise tax now levied by each of the municipalities or special
321 fire control districts, respectively, amounting to 1.85 percent
322 of the gross amount of receipts of premiums from policyholders
323 on all premiums collected on property insurance policies
324 covering property within the corporate limits of such
325 municipalities or within the legally defined boundaries of
326 special fire control districts, respectively. Whenever the
327 boundaries of a special fire control district that has lawfully
328 established a firefighters' pension trust fund encompass a
329 portion of the corporate territory of a municipality that has
330 also lawfully established a firefighters' pension trust fund,
331 that portion of the tax receipts attributable to insurance
332 policies covering property situated both within the municipality
333 and the special fire control district shall be given to the fire
334 service provider. For the purpose of this section, the

335 boundaries of a special fire control district shall be deemed to
 336 include an area that has been annexed until the completion of
 337 the 4-year period provided for in s. 171.093(4), or other
 338 agreed-upon extension, or the termination of an interlocal
 339 agreement executed pursuant to s. 171.093(3). The agent shall
 340 identify the fire service provider on the property owner's
 341 application for insurance. Remaining revenues collected pursuant
 342 to this chapter shall be distributed to the municipality or
 343 special fire control district according to the location of the
 344 insured property.

345
 346 This section also applies to any municipality consisting of a
 347 single consolidated government which is made up of a former
 348 county and one or more municipalities, consolidated pursuant to
 349 the authority in s. 3 or s. 6(e), Art. VIII of the State
 350 Constitution, and to property insurance policies covering
 351 property within the boundaries of the consolidated government,
 352 regardless of whether the properties are located within one or
 353 more separately incorporated areas within the consolidated
 354 government, provided the properties are being provided fire
 355 protection services by the consolidated government. This section
 356 also applies to any municipality, as provided in s.
 357 175.041(3)(c), which has entered into an interlocal agreement to
 358 receive fire protection services from another municipality
 359 participating under this chapter. The excise tax may be levied
 360 on all premiums collected on property insurance policies
 361 covering property located within the corporate limits of the
 362 municipality receiving the fire protection services, but will be

363 available for distribution to the municipality providing the
 364 fire protection services.

365 Section 6. Paragraph (a) of subsection (1) of section
 366 175.1015, Florida Statutes, is amended to read:

367 175.1015 Determination of local premium tax situs.--

368 (1)(a) Any insurance company that is obligated to report
 369 and remit the excise tax on property insurance premiums imposed
 370 under s. 175.101 shall be held harmless from any liability,
 371 including, but not limited to, liability for taxes, interest, or
 372 penalties that would otherwise be due solely as a result of an
 373 assignment of an insured property to an incorrect local taxing
 374 jurisdiction if the insurance company exercises due diligence in
 375 applying an electronic database provided by the Department of
 376 Revenue under subsection (2). Insurance companies that do not
 377 use the electronic database provided by the Department of
 378 Revenue or that do not exercise due diligence in applying the
 379 electronic database for tax years on or after January 1, 2006,
 380 are subject to a 0.5 percent penalty on the portion of the
 381 premium pertaining to any insured risk that is improperly
 382 assigned, whether assigned to an improper local taxing
 383 jurisdiction, not assigned to a local taxing jurisdiction when
 384 it should be assigned to a local taxing jurisdiction, or
 385 assigned to a local taxing jurisdiction when it should not be
 386 assigned to a local taxing jurisdiction. The review for
 387 compliance with these provisions as well as the assessment of
 388 such fines and penalties shall be performed by the Office of
 389 Insurance Regulation of the Financial Services Commission. The
 390 Department of Revenue shall assist by notifying the Office of

HB 171

2008

391 Insurance Regulation of a company's failure to report or provide
 392 an adequate response to significant variances on the DR-908,
 393 Schedules XII and XIII.

394 Section 7. Section 175.151, Florida Statutes, is amended
 395 to read:

396 175.151 Penalty for failure of insurers to comply with
 397 this act.--If any insurance company, corporation or other
 398 insurer fails to comply with the provisions of this act, on or
 399 before March 1 of each year as herein provided, the certificate
 400 of authority issued to said insurance company, corporation or
 401 other insurer to transact business in this state may be canceled
 402 and revoked by the Office of Insurance Regulation of the
 403 Financial Services Commission, and it is unlawful for any such
 404 insurance company, corporation, or other insurer to transact
 405 business thereafter in this state unless such insurance company,
 406 corporation, or other insurer shall be granted a new certificate
 407 of authority to transact any business in this state, in
 408 compliance with provisions of law authorizing such certificate
 409 of authority to be issued. The Department of Revenue shall be
 410 ~~division is~~ responsible for notifying the Office of Insurance
 411 Regulation and the division regarding any such failure to
 412 comply.

413 Section 8. Paragraph (c) of subsection (1) of section
 414 175.171, Florida Statutes, is amended to read:

415 175.171 Optional forms of retirement income.--For any
 416 municipality, special fire control district, chapter plan, local
 417 law municipality, local law special fire control district, or
 418 local law plan under this chapter:

419 (1) In lieu of the amount and form of retirement income
420 payable in the event of normal or early retirement as specified
421 in s. 175.162, a firefighter, upon written request to the board
422 of trustees and subject to the approval of the board of
423 trustees, may elect to receive a retirement income or benefit of
424 equivalent actuarial value payable in accordance with one of the
425 following options:

426 (c) Such other amount and form of retirement payments or
427 benefits as, in the opinion of the board of trustees, will best
428 meet the circumstances of the retiring firefighter.

429 1. The firefighter upon electing any option of this
430 section will designate the joint pensioner or beneficiary (or
431 beneficiaries) to receive the benefit, if any, payable under the
432 plan in the event of his or her death, and will have the power
433 to change such designation from time to time, but any such
434 change shall be deemed a new election and will be subject to
435 approval by the board of trustees. Such designation will name a
436 joint pensioner or one or more primary beneficiaries where
437 applicable. If a firefighter has elected an option with a joint
438 pensioner or beneficiary and his or her retirement income
439 benefits have commenced, the firefighter may thereafter change
440 the designated joint pensioner or beneficiary, but only if the
441 board of trustees consents to such change and if the joint
442 pensioner last previously designated by the firefighter is alive
443 when the firefighter files with the board of trustees a request
444 for such change.

445 2. The consent of a firefighter's joint pensioner or
446 beneficiary to any such change shall not be required.

447 3. The board of trustees may request such evidence of the
448 good health of the joint pensioner that is being removed as it
449 may require and the amount of the retirement income payable to
450 the firefighter upon designation of a new joint pensioner shall
451 be actuarially redetermined taking into account the age and sex
452 of the former joint pensioner, the new joint pensioner, and the
453 firefighter. Each such designation will be made in writing on a
454 form prepared by the board of trustees and on completion will be
455 filed with the board of trustees. In the event that no
456 designated beneficiary survives the firefighter, such benefits
457 as are payable in the event of the death of the firefighter
458 subsequent to his or her retirement shall be paid as provided in
459 s. 175.181.

460 4. Notwithstanding the provisions of this paragraph, the
461 retired firefighter may change his or her designation of joint
462 annuitant or beneficiary up to two times as provided in s.
463 175.333 without the approval of the board of trustees or the
464 prior joint annuitant or beneficiary. The retiree does not have
465 to provide proof of good health of the joint annuitant or
466 beneficiary being removed, and the joint annuitant or
467 beneficiary does not have to be living.

468 Section 9. Section 175.361, Florida Statutes, is amended
469 to read:

470 175.361 Termination of plan and distribution of fund.--For
471 any municipality, special fire control district, chapter plan,
472 local law municipality, local law special fire control district,
473 or local law plan under this chapter, the plan may be terminated
474 by the municipality or special fire control district. Upon

475 termination of the plan by the municipality or special fire
 476 control district for any reason or because of a transfer,
 477 merger, or consolidation of governmental units, services, or
 478 functions as provided in chapter 121, or upon written notice by
 479 the municipality or special fire control district to the board
 480 of trustees that contributions under the plan are being
 481 permanently discontinued, the rights of all employees to
 482 benefits accrued to the date of such termination and the amounts
 483 credited to the employees' accounts are nonforfeitable. The fund
 484 shall be ~~apportioned and~~ distributed in accordance with the
 485 following procedures:

486 (1) The board of trustees shall determine the date of
 487 distribution and the asset value required to fund all the
 488 nonforfeitable benefits to be distributed, after taking into
 489 account the expenses of such distribution. The board shall
 490 inform the municipality or special fire control district if
 491 additional assets are required, in which event such municipality
 492 or special fire control district shall continue to financially
 493 support the plan until all nonforfeitable benefits have been
 494 funded.

495 (2) The board of trustees shall determine the method of
 496 distribution of the asset value, that is, whether distribution
 497 shall be by payment in cash, by the maintenance of another or
 498 substituted trust fund, by the purchase of insured annuities, or
 499 otherwise, for each firefighter entitled to benefits under the
 500 plan as specified in subsection (3).

501 (3) The board of trustees shall distribute ~~apportion~~ the
 502 asset value as of the date of termination in the manner set

503 forth in this subsection, on the basis that the amount required
504 to provide any given retirement income shall mean the
505 actuarially computed single-sum value of such retirement income,
506 except that if the method of distribution determined under
507 subsection (2) involves the purchase of an insured annuity, the
508 amount required to provide the given retirement income shall
509 mean the single premium payable for such annuity. The actuarial
510 single sum value shall not be less than the employee's
511 accumulated contributions to the plan, with interest if provided
512 by the plan, less the value of any plan benefits previously paid
513 to the employee.

514 ~~(a) Apportionment shall first be made in respect of each~~
515 ~~retired firefighter receiving a retirement income hereunder on~~
516 ~~such date, each person receiving a retirement income on such~~
517 ~~date on account of a retired (but since deceased) firefighter,~~
518 ~~and each firefighter who has, by such date, become eligible for~~
519 ~~normal retirement but has not yet retired, in the amount~~
520 ~~required to provide such retirement income, provided that, if~~
521 ~~such asset value is less than the aggregate of such amounts,~~
522 ~~such amounts shall be proportionately reduced so that the~~
523 ~~aggregate of such reduced amounts will be equal to such asset~~
524 ~~value.~~

525 ~~(b) If there is any asset value remaining after the~~
526 ~~apportionment under paragraph (a), apportionment shall next be~~
527 ~~made in respect of each firefighter in the service of the~~
528 ~~municipality or special fire control district on such date who~~
529 ~~has completed at least 10 years of credited service, in the~~
530 ~~firefighters' pension trust fund for at least 10 years, and who~~

531 ~~is not entitled to an apportionment under paragraph (a), in the~~
532 ~~amount required to provide the actuarial equivalent of the~~
533 ~~accrued normal retirement income, based on the firefighter's~~
534 ~~credited service and earnings to such date, and each former~~
535 ~~participant then entitled to a benefit under the provisions of~~
536 ~~s. 175.211 who has not by such date reached his or her normal~~
537 ~~retirement date, in the amount required to provide the actuarial~~
538 ~~equivalent of the accrued normal retirement income to which he~~
539 ~~or she is entitled under s. 175.211; provided that, if such~~
540 ~~remaining asset value is less than the aggregate of the amounts~~
541 ~~apportioned hereunder, such latter amounts shall be~~
542 ~~proportionately reduced so that the aggregate of such reduced~~
543 ~~amounts will be equal to such remaining asset value.~~

544 ~~(c) If there is any asset value after the apportionments~~
545 ~~under paragraphs (a) and (b), apportionment shall lastly be made~~
546 ~~in respect of each firefighter in the service of the~~
547 ~~municipality or special fire control district on such date who~~
548 ~~is not entitled to an apportionment under paragraphs (a) and (b)~~
549 ~~in the amount equal to the firefighter's total contributions to~~
550 ~~the plan to date of termination; provided that, if such~~
551 ~~remaining asset value is less than the aggregate of the amounts~~
552 ~~apportioned hereunder, such latter amounts shall be~~
553 ~~proportionately reduced so that the aggregate of such reduced~~
554 ~~amounts will be equal to such remaining asset value.~~

555 ~~(4)(d)~~ In the event that there is asset value remaining
556 after the full distribution apportionment specified in
557 subsection (3), and after the payment of any expenses incurred
558 with such distribution paragraphs (a), (b), and (c), such excess

559 shall be returned to the municipality or special fire control
 560 district, less return to the state of the state's contributions,
 561 provided that, if the excess is less than the total
 562 contributions made by the municipality or special fire control
 563 district and the state to date of termination of the plan, such
 564 excess shall be divided proportionately to the total
 565 contributions made by the municipality or special fire control
 566 district and the state.

567 (5)~~(4)~~ The board of trustees shall distribute, in
 568 accordance with the manner of distribution determined under
 569 subsection (2), the amounts determined ~~apportioned~~ under
 570 subsection (3).

571
 572 If, after a period of 24 months after the date on which the plan
 573 terminated or the date on which the board received written
 574 notice that the contributions thereunder were being permanently
 575 discontinued, the municipality or special fire control district
 576 or the board of trustees of the firefighters' pension trust fund
 577 affected has not complied with all the provisions in this
 578 section, the Department of Management Services ~~division~~ shall
 579 effect the termination of the fund in accordance with this
 580 section.

581 Section 10. Paragraph (c) of subsection (5) of section
 582 185.02, Florida Statutes, is amended to read:

583 185.02 Definitions.--For any municipality, chapter plan,
 584 local law municipality, or local law plan under this chapter,
 585 the following words and phrases as used in this chapter shall

HB 171

2008

586 have the following meanings, unless a different meaning is
587 plainly required by the context:

588 (5) "Creditable service" or "credited service" means the
589 aggregate number of years of service and fractional parts of
590 years of service of any police officer, omitting intervening
591 years and fractional parts of years when such police officer may
592 not have been employed by the municipality subject to the
593 following conditions:

594 (c) Credited service under this chapter shall be provided
595 only for service as a police officer, as defined in subsection
596 (11), or for military service and shall not include credit for
597 any other type of service. A municipality may, by local
598 ordinance, provide for the purchase of credit for military
599 service occurring prior to employment as well as prior service
600 as a police officer for some other employer as long as the
601 police officer is not entitled to receive a benefit for such
602 other prior service as a police officer. For purposes of
603 determining credit for prior service as a police officer, in
604 addition to service as a police officer in this state, credit
605 may be given for federal, other state, or county service, as
606 long as such prior police service is recognized by the Criminal
607 Justice Standards and Training Commission within the Department
608 of Law Enforcement as provided under chapter 943. The police
609 officer shall provide proof to the board of trustees that such
610 service is equivalent to the definition of police officer under
611 subsection (11).

612 Section 11. Paragraph (a) of subsection (1) and subsection
613 (6) of section 185.05, Florida Statutes, are amended to read:

614 185.05 Board of trustees; members; terms of office;
615 meetings; legal entity; costs; attorney's fees.--For any
616 municipality, chapter plan, local law municipality, or local law
617 plan under this chapter:

618 (1) In each municipality described in s. 185.03 there is
619 hereby created a board of trustees of the municipal police
620 officers' retirement trust fund, which shall be solely
621 responsible for administering the trust fund. Effective October
622 1, 1986, and thereafter:

623 (a) The membership of the board of trustees for chapter
624 plans shall consist of five members, two of whom, unless
625 otherwise prohibited by law, shall be legal residents of the
626 municipality, who shall be appointed by the legislative body of
627 the municipality, and two of whom shall be police officers as
628 defined in s. 185.02 who shall be elected by a majority of the
629 active police officers who are members of such plan. With
630 respect to any chapter plan or local law plan that, on January
631 1, 1997, allowed retired police officers to vote in such
632 elections, retirees may continue to vote in such elections. The
633 fifth member shall be chosen by a majority of the previous four
634 members, and such person's name shall be submitted to the
635 legislative body of the municipality. Upon receipt of the fifth
636 person's name, the legislative body of the municipality shall,
637 as a ministerial duty, appoint such person to the board of
638 trustees as its fifth member. The fifth member shall have the
639 same rights as each of the other four members appointed or
640 elected as herein provided, shall serve as trustee for a period
641 of 2 years, and may succeed himself or herself in office. Each

HB 171

2008

642 resident member shall serve as trustee for a period of 2 years,
643 unless sooner replaced by the legislative body at whose pleasure
644 the member shall serve, and may succeed himself or herself as a
645 trustee. Each police officer member shall serve as trustee for a
646 period of 2 years, unless he or she sooner leaves the employment
647 of the municipality as a police officer, whereupon ~~the~~
648 ~~legislative body of the municipality shall choose~~ a successor
649 shall be chosen in the same manner as an original appointment.
650 Each police officer may succeed himself or herself in office.
651 The terms of office of the appointed and elected members of the
652 board may be amended by municipal ordinance or special act of
653 the Legislature to extend the terms of office from 2 years to 4
654 years. The length of the terms of office shall be the same for
655 all board members.

656 (6) The board of trustees may, upon written request by the
657 retiree of the plan, or by a dependent, when authorized by the
658 retiree or the retiree's beneficiary, authorize the plan
659 administrator to withhold from the monthly retirement payment
660 those funds that are necessary to pay for the benefits being
661 received through the governmental entity from which the employee
662 retired, to pay the certified bargaining agent of the
663 governmental entity, and to make any payments for child support
664 or alimony. Further, the board of trustees may, upon the written
665 request of the retiree of the plan, authorize the plan
666 administrator to withhold from the retirement payment those
667 funds that are necessary to pay for premiums for accident,
668 health, and long-term care insurance for the retiree and the
669 retiree's spouse and dependents. A retirement plan does not

670 incur any liability for participation in this permissive program
 671 if its actions are taken in good faith.

672 Section 12. Subsection (1) of section 185.06, Florida
 673 Statutes, is amended to read:

674 185.06 General powers and duties of board of
 675 trustees.--For any municipality, chapter plan, local law
 676 municipality, or local law plan under this chapter:

677 (1) The board of trustees, subject to the fiduciary
 678 standards in ss. 112.656, 112.661, and 518.11 and the Code of
 679 Ethics in ss. 112.311-112.3187, may utilize the investment
 680 policy guidelines provided in s. 112.661(5) or:

681 (a) Invest and reinvest the assets of the retirement trust
 682 fund in annuity and life insurance contracts of life insurance
 683 companies in amounts sufficient to provide, in whole or in part,
 684 the benefits to which all of the participants in the municipal
 685 police officers' retirement trust fund shall be entitled under
 686 the provisions of this chapter, and pay the initial and
 687 subsequent premiums thereon.

688 (b) Invest and reinvest the assets of the retirement trust
 689 fund in:

690 1. Time or savings accounts of a national bank, a state
 691 bank insured by the Bank Insurance Fund, or a savings and loan
 692 association insured by the Savings Association Insurance Fund
 693 which is administered by the Federal Deposit Insurance
 694 Corporation or a state or federal chartered credit union whose
 695 share accounts are insured by the National Credit Union Share
 696 Insurance Fund.

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

699 3. Bonds issued by the State of Israel.

700 4. Bonds, stocks, or other evidences of indebtedness
701 issued or guaranteed by a corporation organized under the laws
702 of the United States, any state or organized territory of the
703 United States, or the District of Columbia, provided:

704 a. The corporation is listed on any one or more of the
705 recognized national stock exchanges or on the National Market
706 System of the NASDAQ Stock Market and, in the case of bonds
707 only, holds a rating in one of the three highest classifications
708 by a major rating service; and

709 b. The board of trustees shall not invest more than 5
710 percent of its assets in the common stock or capital stock of
711 any one issuing company, nor shall the aggregate investment in
712 any one issuing company exceed 5 percent of the outstanding
713 capital stock of the company or the aggregate of its investments
714 under this subparagraph at cost exceed 50 percent of the fund's
715 assets.

716

717 This paragraph shall apply to all boards of trustees and
718 participants. However, in the event that a municipality has a
719 duly enacted pension plan pursuant to, and in compliance with,
720 s. 185.35 and the trustees thereof desire to vary the investment
721 procedures herein, the trustees of such plan shall request a
722 variance of the investment procedures as outlined herein only
723 through a municipal ordinance or special act of the Legislature;
724 where a special act, or a municipality by ordinance adopted

HB 171

2008

725 prior to July 1, 1998, permits a greater than 50-percent equity
726 investment, such municipality shall not be required to comply
727 with the aggregate equity investment provisions of this
728 paragraph. Notwithstanding any other provision of law to the
729 contrary, nothing in this section may be construed to take away
730 any preexisting legal authority to make equity investments that
731 exceed the requirements of this paragraph. The board of trustees
732 may invest up to 20 ~~10~~ percent of plan assets in foreign
733 securities.

734 (c) Issue drafts upon the municipal police officers'
735 retirement trust fund pursuant to this act and rules and
736 regulations prescribed by the board of trustees. All such drafts
737 shall be consecutively numbered, be signed by the chair and
738 secretary or by two individuals designated by the board who are
739 subject to the same fiduciary standards as required for the
740 board of trustees under this subsection, and state upon their
741 faces the purposes for which the drafts are drawn. The city
742 treasurer or other depository shall retain such drafts when
743 paid, as permanent vouchers for disbursements made, and no money
744 shall otherwise be drawn from the fund.

745 (d) Finally decide all claims to relief under the board's
746 rules and regulations and pursuant to the provisions of this
747 act.

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

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

751 Section 13. Paragraph (b) of subsection (2) of section
752 185.07, Florida Statutes, is amended to read:

HB 171

2008

753 185.07 Creation and maintenance of fund.--For any
754 municipality, chapter plan, local law municipality, or local law
755 plan under this chapter:

756 (2) Member contribution rates may be adjusted as follows:

757 (b) Police officer member contributions may be increased
758 by consent of the members' collective bargaining representative
759 or, if none, by majority consent of police officer members of
760 the fund to provide greater benefits. Such increases in the
761 police officers' contributions may be less but shall not exceed
762 the percent of payroll increase identified in the actuarial
763 impact statement provided in conjunction with the pension
764 benefit improvement as required under s. 112.63.

765

766 Nothing in this section shall be construed to require adjustment
767 of member contribution rates in effect on the date this act
768 becomes a law, including rates that exceed 5 percent of salary,
769 provided that such rates are at least one-half of 1 percent of
770 salary.

771 Section 14. Paragraph (a) of subsection (1) of section
772 185.085, Florida Statutes, is amended to read:

773 185.085 Determination of local premium tax situs.--

774 (1) (a) Any insurance company that is obligated to report
775 and remit the excise tax on casualty insurance premiums imposed
776 under s. 185.08 shall be held harmless from any liability,
777 including, but not limited to, liability for taxes, interest, or
778 penalties that would otherwise be due solely as a result of an
779 assignment of an insured property to an incorrect local taxing
780 jurisdiction if the insurance company exercises due diligence in

HB 171

2008

781 applying an electronic database provided by the Department of
782 Revenue under subsection (2). Insurance companies that do not
783 use the electronic database provided by the Department of
784 Revenue or that do not exercise due diligence in applying the
785 electronic database for tax years on or after January 1, 2006,
786 are subject to a 0.5 percent penalty on the portion of the
787 premium pertaining to any insured risk that is improperly
788 assigned, whether assigned to an improper local taxing
789 jurisdiction, not assigned to a local taxing jurisdiction when
790 it should be assigned to a local taxing jurisdiction, or
791 assigned to a local taxing jurisdiction when it should not be
792 assigned to a local taxing jurisdiction. The review for
793 compliance with these provisions as well as the assessment of
794 such fines and penalties shall be performed by the Office of
795 Insurance Regulation of the Financial Services Commission. The
796 Department of Revenue shall assist by notifying the Office of
797 Insurance Regulation of a company's failure to report or provide
798 an adequate response to significant variances on the DR-908,
799 Schedules XII and XIII.

800 Section 15. Section 185.13, Florida Statutes, is amended
801 to read:

802 185.13 Failure of insurer to comply with chapter;
803 penalty.--If any insurance company, corporation or other insurer
804 fails to comply with the provisions of this chapter, on or
805 before March 1 in each year as herein provided, the certificate
806 of authority issued to said insurance company, corporation or
807 other insurer to transact business in this state may be canceled
808 and revoked by the Office of Insurance Regulation of the

HB 171

2008

809 Financial Services Commission, and it is unlawful for any such
 810 insurance company, corporation or other insurer to transact any
 811 business thereafter in this state unless such insurance company,
 812 corporation or other insurer shall be granted a new certificate
 813 of authority to transact business in this state, in compliance
 814 with provisions of law authorizing such certificate of authority
 815 to be issued. The Department of Revenue ~~division~~ shall be
 816 responsible for notifying the Office of Insurance Regulation and
 817 the division regarding any such failure to comply.

818 Section 16. Paragraph (c) is added to subsection (1) of
 819 section 185.161, Florida Statutes, to read:

820 185.161 Optional forms of retirement income.--For any
 821 municipality, chapter plan, local law municipality, or local law
 822 plan under this chapter:

823 (1)

824 (c) Notwithstanding the provisions in paragraph (b), the
 825 retired police officer may change his or her designation of
 826 joint annuitant or beneficiary up to two times as provided in s.
 827 185.341 without the approval of the board of trustees or the
 828 prior joint annuitant or beneficiary. The retiree does not have
 829 to provide proof of good health of the joint annuitant or
 830 beneficiary being removed, and the joint annuitant or
 831 beneficiary does not have to be living.

832 Section 17. Section 185.37, Florida Statutes, is amended
 833 to read:

834 185.37 Termination of plan and distribution of fund.--For
 835 any municipality, chapter plan, local law municipality, or local
 836 law plan under this chapter, the plan may be terminated by the

837 municipality. Upon termination of the plan by the municipality
838 for any reason, or because of a transfer, merger, or
839 consolidation of governmental units, services, or functions as
840 provided in chapter 121, or upon written notice to the board of
841 trustees by the municipality that contributions under the plan
842 are being permanently discontinued, the rights of all employees
843 to benefits accrued to the date of such termination or
844 discontinuance and the amounts credited to the employees'
845 accounts are nonforfeitable. The fund shall be ~~apportioned and~~
846 distributed in accordance with the following procedures:

847 (1) The board of trustees shall determine the date of
848 distribution and the asset value required to fund all the
849 nonforfeitable benefits ~~to be distributed~~, after taking into
850 account the expenses of such distribution. The board shall
851 inform the municipality if additional assets are required, in
852 which event such municipality shall continue to financially
853 support the plan until all nonforfeitable benefits have been
854 funded.

855 (2) The board of trustees shall determine the method of
856 distribution of the asset value, that is, whether distribution
857 shall be by payment in cash, by the maintenance of another or
858 substituted trust fund, by the purchase of insured annuities, or
859 otherwise, for each police officer entitled to benefits under
860 the plan, as specified in subsection (3).

861 (3) The board of trustees shall distribute ~~apportion~~ the
862 asset value as of the date of termination in the manner set
863 forth in this subsection, on the basis that the amount required
864 to provide any given retirement income shall mean the

HB 171

2008

865 actuarially computed single-sum value of such retirement income,
866 except that if the method of distribution determined under
867 subsection (2) involves the purchase of an insured annuity, the
868 amount required to provide the given retirement income shall
869 mean the single premium payable for such annuity. The actuarial
870 single sum value shall not be less than the employee's
871 accumulated contributions to the plan, with interest if provided
872 by the plan, less the value of any plan benefits previously paid
873 to the employee.

874 ~~(a) Apportionment shall first be made in respect of each~~
875 ~~retired police officer receiving a retirement income hereunder~~
876 ~~on such date, each person receiving a retirement income on such~~
877 ~~date on account of a retired (but since deceased) police~~
878 ~~officer, and each police officer who has, by such date, become~~
879 ~~eligible for normal retirement but has not yet retired, in the~~
880 ~~amount required to provide such retirement income, provided~~
881 ~~that, if such asset value is less than the aggregate of such~~
882 ~~amounts, such amounts shall be proportionately reduced so that~~
883 ~~the aggregate of such reduced amounts will be equal to such~~
884 ~~asset value.~~

885 ~~(b) If there is any asset value remaining after the~~
886 ~~apportionment under paragraph (a), apportionment shall next be~~
887 ~~made in respect of each police officer in the service of the~~
888 ~~municipality on such date who has completed at least 10 years of~~
889 ~~credited service, in the municipal police officers' retirement~~
890 ~~trust fund for at least 10 years, and who is not entitled to an~~
891 ~~apportionment under paragraph (a), in the amount required to~~
892 ~~provide the actuarial equivalent of the accrued normal~~

893 ~~retirement income, based on the police officer's credited~~
894 ~~service and earnings to such date, and each former participant~~
895 ~~then entitled to a benefit under the provisions of s. 185.19 who~~
896 ~~has not by such date reached his or her normal retirement date,~~
897 ~~in the amount required to provide the actuarial equivalent of~~
898 ~~the accrued normal retirement income to which he or she is~~
899 ~~entitled under s. 185.19, provided that, if such remaining asset~~
900 ~~value is less than the aggregate of the amounts apportioned~~
901 ~~hereunder, such latter amounts shall be proportionately reduced~~
902 ~~so that the aggregate of such reduced amounts will be equal to~~
903 ~~such remaining asset value.~~

904 ~~(c) If there is an asset value after the apportionments~~
905 ~~under paragraphs (a) and (b), apportionment shall lastly be made~~
906 ~~in respect of each police officer in the service of the~~
907 ~~municipality on such date who is not entitled to an~~
908 ~~apportionment under paragraphs (a) and (b) in the amount equal~~
909 ~~to the police officer's total contributions to the plan to date~~
910 ~~of termination, provided that, if such remaining asset value is~~
911 ~~less than the aggregate of the amounts apportioned hereunder,~~
912 ~~such latter amounts shall be proportionately reduced so that the~~
913 ~~aggregate of such reduced amounts will be equal to such~~
914 ~~remaining asset value.~~

915 (4)(d) In the event that there is asset value remaining
916 after the full distribution apportionment specified in
917 subsection (3), and after the payment of any expenses incurred
918 with such distribution paragraphs (a), (b), and (c), such excess
919 shall be returned to the municipality, less return to the state
920 of the state's contributions, provided that, if the excess is

HB 171

2008

921 less than the total contributions made by the municipality and
922 the state to date of termination of the plan, such excess shall
923 be divided proportionately to the total contributions made by
924 the municipality and the state.

925 (5)~~(4)~~ The board of trustees shall distribute, in
926 accordance with the manner of distribution determined under
927 subsection (2), the amounts determined ~~apportioned~~ under
928 subsection (3).

929

930 If, after a period of 24 months after the date on which the plan
931 terminated or the date on which the board received written
932 notice that the contributions thereunder were being permanently
933 discontinued, the municipality or the board of trustees of the
934 municipal police officers' retirement trust fund affected has
935 not complied with all the provisions in this section, the
936 Department of Management Services ~~division~~ shall effect the
937 termination of the fund in accordance with this section.

938 Section 18. This act shall take effect July 1, 2008.