

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 976

INTRODUCER: Community Affairs Committee and Senator Jones

SUBJECT: Firefighter and Municipal Police Pensions

DATE: April 17, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Fav/CS
2.			CJ	
3.			GO	
4.			GA	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute (bill) revises provisions relating to firefighter and municipal police pensions for purposes of determining prior service credit and revising terms of office for members of both pension plan boards. Both boards are authorized to increase plan asset investments in foreign securities and the bill clarifies the boundaries of special fire control districts which have been annexed for purposes of assessments and the imposition of excise taxes on insurance premiums. Revisions are made to audit and compliance requirements and plan beneficiaries are authorized to change the designated joint annuitant or beneficiary up to two times without approval of the board. The bill clarifies plan termination provisions to provide that accrued benefits are nonforfeitable.

This bill substantially the following sections of the Florida Statutes: 173.032, 175.061, 175.071, 175.101, 175.171, 175.361, 185.02, 185.05, 185.06, 185.161, and 185.37.

II. Present Situation:

“Marvin B. Clayton Firefighters and Police Officers Pension Trust Fund Acts”

In establishing chapters 175 and 185, Florida Statutes, the Legislature found and declared that it was a proper and legitimate state purpose to provide a uniform retirement system for the benefit of firefighters and municipal police officers, and that in implementing the provisions of s. 14, Art. X of the Florida Constitution, such retirement systems or plans be managed, administered, operated and funded in such a way as to maximize the protection of firefighters’ and police officers’ retirement trust funds.¹ The Municipal Police Officers’ Retirement Trust Fund (PORTF) and the Firefighters’ Pension Trust Fund (FPTF) are housed within the Division of Retirement in the Department of Management Services, which is the state agency responsible for administrative oversight of the funds, including monitoring for actuarial soundness.

The FPTF is funded through an excise tax on property insurance policies. Up to 1.85 percent of the gross amount of receipts on premiums for policies issued within the city boundary or the legally defined boundary of a special fire control district is collected by the Department of Revenue and transferred to the appropriate fund at the Division of Retirement. In 2006, premium tax distributions to cities and special fire control districts from the FPTF amounted to \$60.5 million.²

The PORTF is funded through an excise tax on casualty insurance policies. Up to .85 percent of the gross amount of receipts on premiums for policies issued within the city boundary is collected by the Department of Revenue and transferred to the appropriate fund at the Division of Retirement. In 2006, premium tax distributions to cities from the PORTF amounted to \$65.6 million.³

Additional revenues for both funds come from employee contributions through salary, employer contributions, and fines for employees violating board rules and regulations, and other sources.

Two types of plans operate under chapters 175 and 185, F.S.: Chapter Plans which adopt the provisions of the appropriate chapter by reference, and Local Law Plans which are created by a special act, local ordinance, or resolution which must meet certain statutory minimum standards. As of January 2007, 21 special fire control districts and 157 cities participate in the FPTF, and 181 cities participate in the PORTF. Of the 220 participating cities, 138 cities participate in both plans. Of the 359 plans, 23 are chapter plans and the rest are local law plans. The Division of Retirement reports that more than 48,000 active and retired police officers and firefighters are plan participants.⁴

On a day-to-day basis, the funds in participating cities and special fire control districts are operated by a governing board of trustees created at the local level and consisting of two residents, two police officers or firefighters selected through the active membership, and one member selected by the other four who is approved by the appropriate governing body pro

¹ Fla. Stat. §175.01 (1), 185.01(1) (2006).

² http://dms.myflorida.com/human_resource_support/retirement/municipal_police_and_fire/statistics

³ http://dms.myflorida.com/human_resource_support/retirement/municipal_police_and_fire/statistics

⁴ Based on information provided to the Division of Retirement, Department of Management Services, in the 2006 Annual Reports.

forma. Board members serve 2-year terms and may succeed themselves in office. By majority vote, the trustees must elect a chair and a secretary, and must at least hold quarterly meetings. The Division of Retirement has regulatory oversight over the boards.

General powers and duties of the boards of trustees included investing and reinvesting assets in:

- Annuities and life insurance contracts,
- Time or savings accounts of specified banks and financial institutions;
- Obligations of the United States or obligations guarantees as to principal and interest by the government of the United States,
- Bonds issued by the State of Israel,
- Bonds (which must hold a rating in one of the three highest classifications by a major rating service), stocks, and other indebtedness issued or guaranteed by a United States corporation, and
- Foreign securities not to exceed 10 percent of plan assets.

Public Officers and Employees – Actuarial Soundness of Retirement Systems

Chapter 112, Part VII, Florida Statutes, expresses the Legislature's intent that in implementing s. 14, Art. X of the Florida Constitution, relating to governmental retirement systems, such retirement systems or plans be managed, operated, and funded in such a manner as to maximize the protection of public employee retirement benefits. The provisions of Part VII are applicable to any and all units, agencies, branches, departments, boards, and institutions of state, county, special district, and municipal governments that participate in, operate, or administer a retirement system or plan for public employees which are funded in whole or in part by public funds.

Section 112.661, F.S., establishes investment policies for local retirement systems or plans, and provides that written policies governing the investment of plan assets be structured to maximize financial return to the retirement system or plan consistent with the risk of the investments, and be structured to establish and maintain an appropriate diversification of the retirement system or plan's assets. Investment policies must describe investment objects and the level of prudence and ethical standards to be followed when carrying out investment activities, specify performance measures, list authorized investments, provide maturity and liquidity requirements, establish portfolio composition guidelines, and provide for appropriate diversification, as well as meet additional criteria.

Section 112.656, F.S., requires that in the discharge of duties with respect to a retirement plan, a fiduciary must act solely for the purpose of providing plan participant benefits and defraying the administrative costs of administering the plan. Section 518.11, F.S., governs investments by fiduciaries and provides that a fiduciary has a duty to invest and manage assets as a prudent investor would.

III. Effect of Proposed Changes:

Section 1. Amends s. 175.032, F.S., clarifying the definitions of "creditable service" or "credited service" to provide that a city or fire control district may allow the purchase of prior service as a firefighter for federal, other state, or county service if such prior service is recognized by the Division of State Fire Marshal as provided under chapter 633. The definition of "firefighter" is

revised to include all certified supervisory and command personnel whose duties include the supervision, training, guidance and management responsibilities of full-time firefighters, and to exclude part-time or auxiliary firefighters.

Section 2. Amends s. 175.061, F.S., to provide that the term of office for appointed or elected members of a firefighter pension plan board of trustees can be extended from 2 to 4 years through enactment of a city ordinance, a special act of the Legislature, or a resolution adopted by the governing body of a special fire control district. Specifies that the length of the terms of office must be the same for all members of the board. Expands the ability of the pension plan board to withhold from retirement payments those funds necessary to pay premiums for accident, health, and long-term care insurance for retirees, their spouses, and dependents.

Section 3. Amends s. 175.071, F.S., to provide that drafts upon the firefighters pension trust fund can be signed by two individuals designated by the Board of Trustees who are subject to the same fiduciary standards as required for board members. Authorizes the Board of Trustees to invest up to 25 percent of plan assets in foreign securities.

Section 4. Amends s. 175.101, F.S., to allow a special fire control district to continue to receive state excise tax revenues on property insurance premiums once a portion of the district has been annexed until the completion of the 4-year period provided in s. 171.093(4), or until the completion of an agreed upon extension, or until the termination of an interlocal agreement executed pursuant to s. 171.093(3), F.S.

Section 5. Amends s. 175.171, F.S., to clarify that a retired firefighter may change a designation of joint annuitant or beneficiary up to two times without the approval of the Board of Trustees or the prior joint annuitant or beneficiary. The retiree may not be required to provide proof of good health or the annuitant or beneficiary being removed, and the annuitant or beneficiary need not be living.

Section 6. Amends s. 175.361, F.S., to eliminate apportionment provisions relating to assets to be distributed and requires the Board of Trustees to determine the date of distribution and the asset value required to fund all the nonforfeitable benefits, after accounting for expenses. The board must inform the city or special fire district if additional assets are required. If additional assets are required, the city or special fire district must continue to financially support the plan until all nonforfeitable benefits have been funded. The actuarial single-sum value of a retirement income may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.

Section 7. Amends s. 185.02, F.S., to clarify the definitions of "creditable service" or "credited service" to provide that a city may allow the purchase of prior service as a police officer for federal, other state, or county service if the prior service is recognized by the Criminal Justice Standards and Training Commission with the Department of Law Enforcement. The member must provide proof of equivalent service.

Section 8. Amends s. 185.05, F.S., to provide that the terms of office of appointed and elected members of the Board of Trustees of the municipal police officers' retirement trust fund can be extended from 2 to 4 years through enactment of a city ordinance or by special act of the

Legislature. Specifies that the length of the terms of office must be the same for all board members. The plan trustees may also authorize payroll deduction privileges for the provision of pot-retirement supplemental insurance products for retirees, their spouses, and dependents.

Section 9. Amends s. 185.06, F.S., to allow the Board of Trustees to invest up to 25 percent of plan assets in foreign securities, and to allow the Board to designate two individuals, in addition to the Board's chair and secretary, to sign drafts drawn on the PORTF. The two individuals are subject to the same fiduciary standards as the Board of Trustees members.

Section 10. Amends s. 185.161, F.S., to clarify that a retired police officer may change a designation of joint annuitant or beneficiary up to two times without the approval of the Board of Trustees or the prior joint annuitant or beneficiary. The retiree may not be required to provide proof of good health or the annuitant or beneficiary being removed, and the annuitant or beneficiary need not be living.

Section 11. Amends s. 185.37, F.S., to eliminate apportionment provisions relating to assets to be distributed, and requires the Board of Trustees to determine the date of distribution and the asset value required to fund all the nonforfeitable benefits, after accounting for expenses. The board must inform the city if additional assets are required. If additional assets are required, the city must continue to financially support the plan until all nonforfeitable benefits have been funded. The actuarial single-sum value of a retirement income may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.

Section 12. Provides that the act shall take effect July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local: Local governments may experience an increase in costs associated with provisions of the bill that provide a greater administrative role.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs Committee on April 17, 2008:

The committee substitute removes provisions in the original bill relating to increases in firefighter and municipal police officers member contributions, compliance reviews performed by the Office of Insurance Regulation, and Department of Revenue notification procedures when insurers fail to comply with the provisions of chapter 175.

B. Amendments:

None.