

By Senator Jones

13-00594B-08

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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.; authorizing certain individuals to sign
16 drafts issued upon the firefighters' pension trust fund;
17 amending s. 175.091, F.S.; providing guidelines for the
18 adjustment of firefighter member contribution rates;
19 amending s. 175.101, F.S.; clarifying boundaries of a
20 special fire control district for purposes of assessment
21 and imposition of the excise tax on property insurance
22 premiums; amending s. 175.1015, F.S.; requiring that the
23 review for compliance with certain excise tax reporting
24 and remitting requirements be performed by the Office of
25 Insurance Regulation of the Financial Services Commission;
26 providing notice requirements; amending s. 175.151, F.S.;
27 revising notification procedures with respect to the
28 failure to comply with the provisions of ch. 175, F.S.;
29 amending s. 175.171, F.S.; authorizing retired

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30 firefighters to change their designation of joint
31 annuitant or beneficiary up to two times without the
32 approval of the board of trustees or the prior joint
33 annuitant or beneficiary; amending s. 175.361, F.S.;
34 revising fund distribution procedures with respect to plan
35 termination; requiring the Department of Management
36 Services to effect the termination of the fund; amending
37 s. 185.02, F.S.; revising the definition of "creditable
38 service" for purposes of determining credit for prior
39 service as a police officer; amending s. 185.05, F.S.;
40 revising municipal police officers' retirement trust fund
41 board of trustee selection procedures; authorizing the
42 terms of office for the board of trustees of the municipal
43 police officers' retirement trust fund to be revised under
44 certain circumstances; authorizing the plan administrator
45 to withhold funds to pay for premiums for accident,
46 health, and long-term care insurance for the retiree and
47 the retiree's spouse and dependents; providing an
48 exemption from liability under certain circumstances;
49 amending s. 185.06, F.S.; authorizing certain individuals
50 to sign drafts issued upon the municipal police officers'
51 retirement trust fund; amending s. 185.07, F.S.; providing
52 guidelines for the adjustment of police officer member
53 contribution rates; amending s. 185.085, F.S.; requiring
54 that the review for compliance with certain excise tax
55 reporting and remitting requirements be performed by the
56 Office of Insurance Regulation of the Financial Services
57 Commission; providing notice requirements; amending s.
58 185.13, F.S.; revising notification procedures with

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59 | respect to the failure to comply with the provisions of
60 | ch. 185, F.S.; amending s. 185.161, F.S.; authorizing
61 | retired police officers to change their designation of
62 | joint annuitant or beneficiary up to two times without the
63 | approval of the board of trustees or the prior joint
64 | annuitant or beneficiary; amending s. 185.37, F.S.;
65 | revising fund distribution procedures with respect to plan
66 | termination; requiring that the Department of Management
67 | Services effect the termination of the fund; providing an
68 | effective date.

69 |
70 | Be It Enacted by the Legislature of the State of Florida:

71 |
72 | Section 1. Paragraph (c) of subsection (4) and paragraph
73 | (a) of subsection (8) of section 175.032, Florida Statutes, are
74 | amended to read:

75 | 175.032 Definitions.--For any municipality, special fire
76 | control district, chapter plan, local law municipality, local law
77 | special fire control district, or local law plan under this
78 | chapter, the following words and phrases have the following
79 | meanings:

80 | (4) "Creditable service" or "credited service" means the
81 | aggregate number of years of service, and fractional parts of
82 | years of service, of any firefighter, omitting intervening years
83 | and fractional parts of years when such firefighter may not have
84 | been employed by the municipality or special fire control
85 | district, subject to the following conditions:

86 | (c) Credited service under this chapter shall be provided
87 | only for service as a firefighter, as defined in subsection (8),

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88 or for military service and shall not include credit for any
89 other type of service. A municipality may, by local ordinance, or
90 a special fire control district may, by resolution, provide for
91 the purchase of credit for military service prior to employment
92 as well as for prior service as a firefighter for some other
93 employer as long as a firefighter is not entitled to receive a
94 benefit for such other prior service as a firefighter. For
95 purposes of determining credit for prior service as a
96 firefighter, in addition to service as a firefighter in this
97 state, credit may be given for federal, other state, or county
98 service as long as such prior firefighter service is recognized
99 by the Division of State Fire Marshal as provided under chapter
100 633. The firefighter shall provide proof to the board of trustees
101 that such service is equivalent to the definition of firefighter
102 under subsection (8).

103 (8) (a) "Firefighter" means any person employed solely by a
104 constituted fire department of any municipality or special fire
105 control district who is certified as a firefighter as a condition
106 of employment in accordance with the provisions of s. 633.35 and
107 whose duty it is to extinguish fires, to protect life, or to
108 protect property. "Firefighter" includes all certified
109 supervisory and command personnel whose duties include, in whole
110 or in part, the supervision, training, guidance, and management
111 responsibilities of full-time firefighters, part-time
112 firefighters, or auxiliary firefighters but does not include
113 part-time firefighters or auxiliary firefighters. However, for
114 purposes of this chapter only, "firefighter" also includes public
115 safety officers who are responsible for performing both police
116 and fire services, who are certified as police officers or

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117 firefighters, and who are certified by their employers to the
118 Chief Financial Officer as participating in this chapter prior to
119 October 1, 1979. Effective October 1, 1979, public safety
120 officers who have not been certified as participating in this
121 chapter shall be considered police officers for retirement
122 purposes and shall be eligible to participate in chapter 185. Any
123 plan may provide that the fire chief shall have an option to
124 participate, or not, in that plan.

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

127 175.061 Board of trustees; members; terms of office;
128 meetings; legal entity; costs; attorney's fees.--For any
129 municipality, special fire control district, chapter plan, local
130 law municipality, local law special fire control district, or
131 local law plan under this chapter:

132 (1) In each municipality and in each special fire control
133 district there is hereby created a board of trustees of the
134 firefighters' pension trust fund, which shall be solely
135 responsible for administering the trust fund. Effective October
136 1, 1986, and thereafter:

137 (a) The membership of the board of trustees for a chapter
138 plan shall consist of five members, two of whom, unless otherwise
139 prohibited by law, shall be legal residents of the municipality
140 or special fire control district, who shall be appointed by the
141 governing body of the municipality or special fire control
142 district, and two of whom shall be full-time firefighters as
143 defined in s. 175.032 who shall be elected by a majority of the
144 active firefighters who are members of such plan. With respect to
145 any chapter plan or local law plan that, on January 1, 1997,

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146 allowed retired firefighters to vote in such elections, retirees
147 may continue to vote in such elections. The fifth member shall be
148 chosen by a majority of the previous four members as provided for
149 herein, and such person's name shall be submitted to the
150 governing body of the municipality or special fire control
151 district. Upon receipt of the fifth person's name, the governing
152 body of the municipality or special fire control district shall,
153 as a ministerial duty, appoint such person to the board of
154 trustees as its fifth member. The fifth member shall have the
155 same rights as each of the other four members appointed or
156 elected as herein provided, shall serve as trustee for a period
157 of 2 years, and may succeed himself or herself in office. Each
158 resident member shall serve as trustee for a period of 2 years,
159 unless sooner replaced by the governing body at whose pleasure he
160 or she shall serve, and may succeed himself or herself as a
161 trustee. Each firefighter member shall serve as trustee for a
162 period of 2 years, unless he or she sooner leaves the employment
163 of the municipality or special fire control district as a
164 firefighter, whereupon a successor shall be chosen in the same
165 manner as an original appointment. Each firefighter may succeed
166 himself or herself in office. The terms of office of the
167 appointed and elected members of the board may be amended by
168 municipal ordinance, special act of the Legislature, or
169 resolution adopted by the governing body of the special fire
170 control district to extend the terms of office from 2 years to 4
171 years. The length of the terms of office shall be the same for
172 all board members.

173 (7) The board of trustees may, upon written request by the
174 retiree of the plan, or by a dependent, when authorized by the

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175 retiree or the retiree's beneficiary, authorize the plan
176 administrator to withhold from the monthly retirement payment
177 those funds that are necessary to pay for the benefits being
178 received through the governmental entity from which the employee
179 retired, to pay the certified bargaining agent of the
180 governmental entity, and to make any payments for child support
181 or alimony. Further, the board of trustees may, upon the written
182 request of the retiree of the plan, authorize the plan
183 administrator to withhold from the retirement payment those funds
184 that are necessary to pay for premiums for accident, health, and
185 long-term care insurance for the retiree and the retiree's spouse
186 and dependents. A retirement plan does not incur any liability
187 for participation in this permissive program if its actions are
188 taken in good faith.

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

191 175.071 General powers and duties of board of
192 trustees.--For any municipality, special fire control district,
193 chapter plan, local law municipality, local law special fire
194 control district, or local law plan under this chapter:

195 (1) The board of trustees may:

196 (a) Invest and reinvest the assets of the firefighters'
197 pension trust fund in annuity and life insurance contracts of
198 life insurance companies in amounts sufficient to provide, in
199 whole or in part, the benefits to which all of the participants
200 in the firefighters' pension trust fund shall be entitled under
201 the provisions of this chapter and pay the initial and subsequent
202 premiums thereon.

203 (b) Invest and reinvest the assets of the firefighters'

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204 pension trust fund in:

205 1. Time or savings accounts of a national bank, a state
206 bank insured by the Bank Insurance Fund, or a savings, building,
207 and loan association insured by the Savings Association Insurance
208 Fund which is administered by the Federal Deposit Insurance
209 Corporation or a state or federal chartered credit union whose
210 share accounts are insured by the National Credit Union Share
211 Insurance Fund.

212 2. Obligations of the United States or obligations
213 guaranteed as to principal and interest by the government of the
214 United States.

215 3. Bonds issued by the State of Israel.

216 4. Bonds, stocks, or other evidences of indebtedness issued
217 or guaranteed by a corporation organized under the laws of the
218 United States, any state or organized territory of the United
219 States, or the District of Columbia, provided:

220 a. The corporation is listed on any one or more of the
221 recognized national stock exchanges or on the National Market
222 System of the NASDAQ Stock Market and, in the case of bonds only,
223 holds a rating in one of the three highest classifications by a
224 major rating service; and

225 b. The board of trustees shall not invest more than 5
226 percent of its assets in the common stock or capital stock of any
227 one issuing company, nor shall the aggregate investment in any
228 one issuing company exceed 5 percent of the outstanding capital
229 stock of that company or the aggregate of its investments under
230 this subparagraph at cost exceed 50 percent of the assets of the
231 fund.

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233 This paragraph shall apply to all boards of trustees and
234 participants. However, in the event that a municipality or
235 special fire control district has a duly enacted pension plan
236 pursuant to, and in compliance with, s. 175.351, and the trustees
237 thereof desire to vary the investment procedures herein, the
238 trustees of such plan shall request a variance of the investment
239 procedures as outlined herein only through a municipal ordinance,
240 special act of the Legislature, or resolution by the governing
241 body of the special fire control district; where a special act,
242 or a municipality by ordinance adopted prior to July 1, 1998,
243 permits a greater than 50-percent equity investment, such
244 municipality shall not be required to comply with the aggregate
245 equity investment provisions of this paragraph. Notwithstanding
246 any other provision of law to the contrary, nothing in this
247 section may be construed to take away any preexisting legal
248 authority to make equity investments that exceed the requirements
249 of this paragraph. The board of trustees may invest up to 25 ~~10~~
250 percent of plan assets in foreign securities.

251 (c) Issue drafts upon the firefighters' pension trust fund
252 pursuant to this act and rules and regulations prescribed by the
253 board of trustees. All such drafts shall be consecutively
254 numbered, be signed by the chair and secretary or by two
255 individuals designated by the board who are subject to the same
256 fiduciary standards as required for the board of trustees under
257 this subsection, and state upon their faces the purpose for which
258 the drafts are drawn. The treasurer or depository of each
259 municipality or special fire control district shall retain such
260 drafts when paid, as permanent vouchers for disbursements made,
261 and no money shall be otherwise drawn from the fund.

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

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

265 Section 4. Paragraph (b) of subsection (2) of section
266 175.091, Florida Statutes, is amended to read:

267 175.091 Creation and maintenance of fund.--For any
268 municipality, special fire control district, chapter plan, local
269 law municipality, local law special fire control district, or
270 local law plan under this chapter:

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

272 (b) Firefighter member contributions may be increased by
273 consent of the members' collective bargaining representative or,
274 if none, by majority consent of firefighter members of the fund
275 to provide greater benefits. Such increases in the firefighters'
276 contributions may be less but may not exceed the percent of
277 payroll increase identified in the actuarial impact statement
278 provided in conjunction with the pension benefit improvement as
279 required under s. 112.63.

280

281 Nothing in this section shall be construed to require adjustment
282 of member contribution rates in effect on the date this act
283 becomes a law, including rates that exceed 5 percent of salary,
284 provided that such rates are at least one-half of 1 percent of
285 salary.

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

288 175.101 State excise tax on property insurance premiums
289 authorized; procedure.--For any municipality, special fire
290 control district, chapter plan, local law municipality, local law

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291 special fire control district, or local law plan under this
292 chapter:

293 (1) Each municipality or special fire control district in
294 this state described and classified in s. 175.041, having a
295 lawfully established firefighters' pension trust fund or
296 municipal fund or special fire control district fund, by whatever
297 name known, providing pension benefits to firefighters as
298 provided under this chapter, may assess and impose on every
299 insurance company, corporation, or other insurer now engaged in
300 or carrying on, or who shall hereinafter engage in or carry on,
301 the business of property insurance as shown by the records of the
302 Office of Insurance Regulation of the Financial Services
303 Commission an excise tax in addition to any lawful license or
304 excise tax now levied by each of the municipalities or special
305 fire control districts, respectively, amounting to 1.85 percent
306 of the gross amount of receipts of premiums from policyholders on
307 all premiums collected on property insurance policies covering
308 property within the corporate limits of such municipalities or
309 within the legally defined boundaries of special fire control
310 districts, respectively. Whenever the boundaries of a special
311 fire control district that has lawfully established a
312 firefighters' pension trust fund encompass a portion of the
313 corporate territory of a municipality that has also lawfully
314 established a firefighters' pension trust fund, that portion of
315 the tax receipts attributable to insurance policies covering
316 property situated both within the municipality and the special
317 fire control district shall be given to the fire service
318 provider. For the purpose of this section, the boundaries of a
319 special fire control district shall be deemed to include an area

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320 that has been annexed until the completion of the 4-year period
321 provided for in s. 171.093(4), or other agreed-upon extension, or
322 the termination of an interlocal agreement executed pursuant to
323 s. 171.093(3). The agent shall identify the fire service provider
324 on the property owner's application for insurance. Remaining
325 revenues collected pursuant to this chapter shall be distributed
326 to the municipality or special fire control district according to
327 the location of the insured property.

328
329 This section also applies to any municipality consisting of a
330 single consolidated government which is made up of a former
331 county and one or more municipalities, consolidated pursuant to
332 the authority in s. 3 or s. 6(e), Art. VIII of the State
333 Constitution, and to property insurance policies covering
334 property within the boundaries of the consolidated government,
335 regardless of whether the properties are located within one or
336 more separately incorporated areas within the consolidated
337 government, provided the properties are being provided fire
338 protection services by the consolidated government. This section
339 also applies to any municipality, as provided in s.
340 175.041(3)(c), which has entered into an interlocal agreement to
341 receive fire protection services from another municipality
342 participating under this chapter. The excise tax may be levied on
343 all premiums collected on property insurance policies covering
344 property located within the corporate limits of the municipality
345 receiving the fire protection services, but will be available for
346 distribution to the municipality providing the fire protection
347 services.

348 Section 6. Paragraph (a) of subsection (1) of section

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349 | 175.1015, Florida Statutes, is amended to read:

350 | 175.1015 Determination of local premium tax situs.--

351 | (1) (a) Any insurance company that is obligated to report
352 | and remit the excise tax on property insurance premiums imposed
353 | under s. 175.101 shall be held harmless from any liability,
354 | including, but not limited to, liability for taxes, interest, or
355 | penalties that would otherwise be due solely as a result of an
356 | assignment of an insured property to an incorrect local taxing
357 | jurisdiction if the insurance company exercises due diligence in
358 | applying an electronic database provided by the Department of
359 | Revenue under subsection (2). Insurance companies that do not use
360 | the electronic database provided by the Department of Revenue or
361 | that do not exercise due diligence in applying the electronic
362 | database for tax years on or after January 1, 2006, are subject
363 | to a 0.5 percent penalty on the portion of the premium pertaining
364 | to any insured risk that is improperly assigned, whether assigned
365 | to an improper local taxing jurisdiction, not assigned to a local
366 | taxing jurisdiction when it should be assigned to a local taxing
367 | jurisdiction, or assigned to a local taxing jurisdiction when it
368 | should not be assigned to a local taxing jurisdiction. The review
369 | for compliance with these provisions as well as the assessment of
370 | such fines and penalties shall be performed by the Office of
371 | Insurance Regulation of the Financial Services Commission. The
372 | Department of Revenue shall assist by notifying the Office of
373 | Insurance Regulation of a company's failure to report or provide
374 | an adequate response to significant variances on the DR-908,
375 | Schedules XII and XIII.

376 | Section 7. Section 175.151, Florida Statutes, is amended to
377 | read:

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378 175.151 Penalty for failure of insurers to comply with this
379 act.--If any insurance company, corporation or other insurer
380 fails to comply with the provisions of this act, on or before
381 March 1 of each year as herein provided, the certificate of
382 authority issued to said insurance company, corporation or other
383 insurer to transact business in this state may be canceled and
384 revoked by the Office of Insurance Regulation of the Financial
385 Services Commission, and it is unlawful for any such insurance
386 company, corporation, or other insurer to transact business
387 thereafter in this state unless such insurance company,
388 corporation, or other insurer shall be granted a new certificate
389 of authority to transact any business in this state, in
390 compliance with provisions of law authorizing such certificate of
391 authority to be issued. The Department of Revenue shall be
392 ~~division is~~ responsible for notifying the Office of Insurance
393 Regulation and the division regarding any such failure to comply.

394 Section 8. Paragraph (c) of subsection (1) of section
395 175.171, Florida Statutes, is amended to read:

396 175.171 Optional forms of retirement income.--For any
397 municipality, special fire control district, chapter plan, local
398 law municipality, local law special fire control district, or
399 local law plan under this chapter:

400 (1) In lieu of the amount and form of retirement income
401 payable in the event of normal or early retirement as specified
402 in s. 175.162, a firefighter, upon written request to the board
403 of trustees and subject to the approval of the board of trustees,
404 may elect to receive a retirement income or benefit of equivalent
405 actuarial value payable in accordance with one of the following
406 options:

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

410 1. The firefighter upon electing any option of this section
411 will designate the joint pensioner or beneficiary (or
412 beneficiaries) to receive the benefit, if any, payable under the
413 plan in the event of his or her death, and will have the power to
414 change such designation from time to time, but any such change
415 shall be deemed a new election and will be subject to approval by
416 the board of trustees. Such designation will name a joint
417 pensioner or one or more primary beneficiaries where applicable.
418 If a firefighter has elected an option with a joint pensioner or
419 beneficiary and his or her retirement income benefits have
420 commenced, the firefighter may thereafter change the designated
421 joint pensioner or beneficiary, but only if the board of trustees
422 consents to such change and if the joint pensioner last
423 previously designated by the firefighter is alive when the
424 firefighter files with the board of trustees a request for such
425 change.

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

428 3. The board of trustees may request such evidence of the
429 good health of the joint pensioner that is being removed as it
430 may require and the amount of the retirement income payable to
431 the firefighter upon designation of a new joint pensioner shall
432 be actuarially redetermined taking into account the age and sex
433 of the former joint pensioner, the new joint pensioner, and the
434 firefighter. Each such designation will be made in writing on a
435 form prepared by the board of trustees and on completion will be

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436 filed with the board of trustees. In the event that no designated
437 beneficiary survives the firefighter, such benefits as are
438 payable in the event of the death of the firefighter subsequent
439 to his or her retirement shall be paid as provided in s. 175.181.

440 4. Notwithstanding the provisions of this paragraph, the
441 retired firefighter may change his or her designation of joint
442 annuitant or beneficiary up to two times as provided in s.
443 175.333 without the approval of the board of trustees or the
444 prior joint annuitant or beneficiary. The retiree may not be
445 required to provide proof of good health of the joint annuitant
446 or of the beneficiary being removed, and the joint annuitant or
447 beneficiary need not be living.

448 Section 9. Section 175.361, Florida Statutes, is amended to
449 read:

450 175.361 Termination of plan and distribution of fund.--For
451 any municipality, special fire control district, chapter plan,
452 local law municipality, local law special fire control district,
453 or local law plan under this chapter, the plan may be terminated
454 by the municipality or special fire control district. Upon
455 termination of the plan by the municipality or special fire
456 control district for any reason or because of a transfer, merger,
457 or consolidation of governmental units, services, or functions as
458 provided in chapter 121, or upon written notice by the
459 municipality or special fire control district to the board of
460 trustees that contributions under the plan are being permanently
461 discontinued, the rights of all employees to benefits accrued to
462 the date of such termination and the amounts credited to the
463 employees' accounts are nonforfeitable. The fund shall be
464 ~~apportioned and~~ distributed in accordance with the following

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465 | procedures:

466 | (1) The board of trustees shall determine the date of
467 | distribution and the asset value required to fund all the
468 | nonforfeitable benefits ~~to be distributed~~, after taking into
469 | account the expenses of such distribution. The board shall inform
470 | the municipality or special fire control district if additional
471 | assets are required, in which event such municipality or special
472 | fire control district shall continue to financially support the
473 | plan until all nonforfeitable benefits have been funded.

474 | (2) The board of trustees shall determine the method of
475 | distribution of the asset value, that is, whether distribution
476 | shall be by payment in cash, by the maintenance of another or
477 | substituted trust fund, by the purchase of insured annuities, or
478 | otherwise, for each firefighter entitled to benefits under the
479 | plan as specified in subsection (3).

480 | (3) The board of trustees shall distribute ~~apportion~~ the
481 | asset value as of the date of termination in the manner set forth
482 | in this subsection, on the basis that the amount required to
483 | provide any given retirement income shall mean the actuarially
484 | computed single-sum value of such retirement income, except that
485 | if the method of distribution determined under subsection (2)
486 | involves the purchase of an insured annuity, the amount required
487 | to provide the given retirement income shall mean the single
488 | premium payable for such annuity. The actuarial single sum value
489 | may not be less than the employee's accumulated contributions to
490 | the plan, with interest if provided by the plan, less the value
491 | of any plan benefits previously paid to the employee.

492 | ~~(a) Apportionment shall first be made in respect of each~~
493 | ~~retired firefighter receiving a retirement income hereunder on~~

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494 ~~such date, each person receiving a retirement income on such date~~
495 ~~on account of a retired (but since deceased) firefighter, and~~
496 ~~each firefighter who has, by such date, become eligible for~~
497 ~~normal retirement but has not yet retired, in the amount required~~
498 ~~to provide such retirement income, provided that, if such asset~~
499 ~~value is less than the aggregate of such amounts, such amounts~~
500 ~~shall be proportionately reduced so that the aggregate of such~~
501 ~~reduced amounts will be equal to such asset value.~~

502 ~~(b) If there is any asset value remaining after the~~
503 ~~apportionment under paragraph (a), apportionment shall next be~~
504 ~~made in respect of each firefighter in the service of the~~
505 ~~municipality or special fire control district on such date who~~
506 ~~has completed at least 10 years of credited service, in the~~
507 ~~firefighters' pension trust fund for at least 10 years, and who~~
508 ~~is not entitled to an apportionment under paragraph (a), in the~~
509 ~~amount required to provide the actuarial equivalent of the~~
510 ~~accrued normal retirement income, based on the firefighter's~~
511 ~~credited service and earnings to such date, and each former~~
512 ~~participant then entitled to a benefit under the provisions of s.~~
513 ~~175.211 who has not by such date reached his or her normal~~
514 ~~retirement date, in the amount required to provide the actuarial~~
515 ~~equivalent of the accrued normal retirement income to which he or~~
516 ~~she is entitled under s. 175.211; provided that, if such~~
517 ~~remaining asset value is less than the aggregate of the amounts~~
518 ~~apportioned hereunder, such latter amounts shall be~~
519 ~~proportionately reduced so that the aggregate of such reduced~~
520 ~~amounts will be equal to such remaining asset value.~~

521 ~~(c) If there is any asset value after the apportionments~~
522 ~~under paragraphs (a) and (b), apportionment shall lastly be made~~

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523 ~~in respect of each firefighter in the service of the municipality~~
524 ~~or special fire control district on such date who is not entitled~~
525 ~~to an apportionment under paragraphs (a) and (b) in the amount~~
526 ~~equal to the firefighter's total contributions to the plan to~~
527 ~~date of termination; provided that, if such remaining asset value~~
528 ~~is less than the aggregate of the amounts apportioned hereunder,~~
529 ~~such latter amounts shall be proportionately reduced so that the~~
530 ~~aggregate of such reduced amounts will be equal to such remaining~~
531 ~~asset value.~~

532 (4)~~(d)~~ In the event that there is asset value remaining
533 after the full distribution ~~apportionment~~ specified in subsection
534 (3), and after the payment of any expenses incurred with such
535 distribution ~~paragraphs (a), (b), and (c)~~, such excess shall be
536 returned to the municipality or special fire control district,
537 less return to the state of the state's contributions, provided
538 that, if the excess is less than the total contributions made by
539 the municipality or special fire control district and the state
540 to date of termination of the plan, such excess shall be divided
541 proportionately to the total contributions made by the
542 municipality or special fire control district and the state.

543 (5)~~(4)~~ The board of trustees shall distribute, in
544 accordance with the manner of distribution determined under
545 subsection (2), the amounts determined ~~apportioned~~ under
546 subsection (3).

547
548 If, after a period of 24 months after the date on which the plan
549 terminated or the date on which the board received written notice
550 that the contributions thereunder were being permanently
551 discontinued, the municipality or special fire control district

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552 or the board of trustees of the firefighters' pension trust fund
553 affected has not complied with all the provisions in this
554 section, the Department of Management Services ~~division~~ shall
555 effect the termination of the fund in accordance with this
556 section.

557 Section 10. Paragraph (c) of subsection (5) of section
558 185.02, Florida Statutes, is amended to read:

559 185.02 Definitions.--For any municipality, chapter plan,
560 local law municipality, or local law plan under this chapter, the
561 following words and phrases as used in this chapter shall have
562 the following meanings, unless a different meaning is plainly
563 required by the context:

564 (5) "Creditable service" or "credited service" means the
565 aggregate number of years of service and fractional parts of
566 years of service of any police officer, omitting intervening
567 years and fractional parts of years when such police officer may
568 not have been employed by the municipality subject to the
569 following conditions:

570 (c) Credited service under this chapter shall be provided
571 only for service as a police officer, as defined in subsection
572 (11), or for military service and shall not include credit for
573 any other type of service. A municipality may, by local
574 ordinance, provide for the purchase of credit for military
575 service occurring prior to employment as well as prior service as
576 a police officer for some other employer as long as the police
577 officer is not entitled to receive a benefit for such other prior
578 service as a police officer. For purposes of determining credit
579 for prior service as a police officer, in addition to service as
580 a police officer in this state, credit may be given for federal,

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581 other state, or county service as long as such prior police
582 service is recognized by the Criminal Justice Standards and
583 Training Commission within the Department of Law Enforcement as
584 provided under chapter 943. The police officer shall provide
585 proof to the board of trustees that such service is equivalent to
586 the definition of police officer under subsection (11).

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

589 185.05 Board of trustees; members; terms of office;
590 meetings; legal entity; costs; attorney's fees.--For any
591 municipality, chapter plan, local law municipality, or local law
592 plan under this chapter:

593 (1) In each municipality described in s. 185.03 there is
594 hereby created a board of trustees of the municipal police
595 officers' retirement trust fund, which shall be solely
596 responsible for administering the trust fund. Effective October
597 1, 1986, and thereafter:

598 (a) The membership of the board of trustees for chapter
599 plans shall consist of five members, two of whom, unless
600 otherwise prohibited by law, shall be legal residents of the
601 municipality, who shall be appointed by the legislative body of
602 the municipality, and two of whom shall be police officers as
603 defined in s. 185.02 who shall be elected by a majority of the
604 active police officers who are members of such plan. With respect
605 to any chapter plan or local law plan that, on January 1, 1997,
606 allowed retired police officers to vote in such elections,
607 retirees may continue to vote in such elections. The fifth member
608 shall be chosen by a majority of the previous four members, and
609 such person's name shall be submitted to the legislative body of

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610 the municipality. Upon receipt of the fifth person's name, the
611 legislative body of the municipality shall, as a ministerial
612 duty, appoint such person to the board of trustees as its fifth
613 member. The fifth member shall have the same rights as each of
614 the other four members appointed or elected as herein provided,
615 shall serve as trustee for a period of 2 years, and may succeed
616 himself or herself in office. Each resident member shall serve as
617 trustee for a period of 2 years, unless sooner replaced by the
618 legislative body at whose pleasure the member shall serve, and
619 may succeed himself or herself as a trustee. Each police officer
620 member shall serve as trustee for a period of 2 years, unless he
621 or she sooner leaves the employment of the municipality as a
622 police officer, whereupon ~~the legislative body of the~~
623 ~~municipality shall choose~~ a successor shall be chosen in the same
624 manner as an original appointment. Each police officer may
625 succeed himself or herself in office. The terms of office of the
626 appointed and elected members of the board may be amended by
627 municipal ordinance or special act of the Legislature to extend
628 the terms of office from 2 years to 4 years. The length of the
629 terms of office shall be the same for all board members.

630 (6) The board of trustees may, upon written request by the
631 retiree of the plan, or by a dependent, when authorized by the
632 retiree or the retiree's beneficiary, authorize the plan
633 administrator to withhold from the monthly retirement payment
634 those funds that are necessary to pay for the benefits being
635 received through the governmental entity from which the employee
636 retired, to pay the certified bargaining agent of the
637 governmental entity, and to make any payments for child support
638 or alimony. Further, the board of trustees may, upon the written

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639 request of the retiree of the plan, authorize the plan
640 administrator to withhold from the retirement payment those funds
641 that are necessary to pay for premiums for accident, health, and
642 long-term care insurance for the retiree and the retiree's spouse
643 and dependents. A retirement plan does not incur any liability
644 for participation in this permissive program if its actions are
645 taken in good faith.

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

648 185.06 General powers and duties of board of trustees.--For
649 any municipality, chapter plan, local law municipality, or local
650 law plan under this chapter:

651 (1) The board of trustees may:

652 (a) Invest and reinvest the assets of the retirement trust
653 fund in annuity and life insurance contracts of life insurance
654 companies in amounts sufficient to provide, in whole or in part,
655 the benefits to which all of the participants in the municipal
656 police officers' retirement trust fund shall be entitled under
657 the provisions of this chapter, and pay the initial and
658 subsequent premiums thereon.

659 (b) Invest and reinvest the assets of the retirement trust
660 fund in:

661 1. Time or savings accounts of a national bank, a state
662 bank insured by the Bank Insurance Fund, or a savings and loan
663 association insured by the Savings Association Insurance Fund
664 which is administered by the Federal Deposit Insurance
665 Corporation or a state or federal chartered credit union whose
666 share accounts are insured by the National Credit Union Share
667 Insurance Fund.

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

670 3. Bonds issued by the State of Israel.

671 4. Bonds, stocks, or other evidences of indebtedness issued
672 or guaranteed by a corporation organized under the laws of the
673 United States, any state or organized territory of the United
674 States, or the District of Columbia, provided:

675 a. The corporation is listed on any one or more of the
676 recognized national stock exchanges or on the National Market
677 System of the NASDAQ Stock Market and, in the case of bonds only,
678 holds a rating in one of the three highest classifications by a
679 major rating service; and

680 b. The board of trustees shall not invest more than 5
681 percent of its assets in the common stock or capital stock of any
682 one issuing company, nor shall the aggregate investment in any
683 one issuing company exceed 5 percent of the outstanding capital
684 stock of the company or the aggregate of its investments under
685 this subparagraph at cost exceed 50 percent of the fund's assets.

686

687 This paragraph shall apply to all boards of trustees and
688 participants. However, in the event that a municipality has a
689 duly enacted pension plan pursuant to, and in compliance with, s.
690 185.35 and the trustees thereof desire to vary the investment
691 procedures herein, the trustees of such plan shall request a
692 variance of the investment procedures as outlined herein only
693 through a municipal ordinance or special act of the Legislature;
694 where a special act, or a municipality by ordinance adopted prior
695 to July 1, 1998, permits a greater than 50-percent equity
696 investment, such municipality shall not be required to comply

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697 with the aggregate equity investment provisions of this
698 paragraph. Notwithstanding any other provision of law to the
699 contrary, nothing in this section may be construed to take away
700 any preexisting legal authority to make equity investments that
701 exceed the requirements of this paragraph. The board of trustees
702 may invest up to 25 ~~40~~ percent of plan assets in foreign
703 securities.

704 (c) Issue drafts upon the municipal police officers'
705 retirement trust fund pursuant to this act and rules and
706 regulations prescribed by the board of trustees. All such drafts
707 shall be consecutively numbered, be signed by the chair and
708 secretary or by two individuals designated by the board who are
709 subject to the same fiduciary standards as required for the board
710 of trustees under this subsection, and state upon their faces the
711 purposes for which the drafts are drawn. The city treasurer or
712 other depository shall retain such drafts when paid, as permanent
713 vouchers for disbursements made, and no money shall otherwise be
714 drawn from the fund.

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

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

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

720 Section 13. Paragraph (b) of subsection (2) of section
721 185.07, Florida Statutes, is amended to read:

722 185.07 Creation and maintenance of fund.--For any
723 municipality, chapter plan, local law municipality, or local law
724 plan under this chapter:

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

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726 (b) Police officer member contributions may be increased by
727 consent of the members' collective bargaining representative or,
728 if none, by majority consent of police officer members of the
729 fund to provide greater benefits. Such increases in the police
730 officers' contributions may be less but may not exceed the
731 percent of payroll increase identified in the actuarial impact
732 statement provided in conjunction with the pension benefit
733 improvement as required under s. 112.63.

734
735 Nothing in this section shall be construed to require adjustment
736 of member contribution rates in effect on the date this act
737 becomes a law, including rates that exceed 5 percent of salary,
738 provided that such rates are at least one-half of 1 percent of
739 salary.

740 Section 14. Paragraph (a) of subsection (1) of section
741 185.085, Florida Statutes, is amended to read:

742 185.085 Determination of local premium tax situs.--

743 (1)(a) Any insurance company that is obligated to report
744 and remit the excise tax on casualty insurance premiums imposed
745 under s. 185.08 shall be held harmless from any liability,
746 including, but not limited to, liability for taxes, interest, or
747 penalties that would otherwise be due solely as a result of an
748 assignment of an insured property to an incorrect local taxing
749 jurisdiction if the insurance company exercises due diligence in
750 applying an electronic database provided by the Department of
751 Revenue under subsection (2). Insurance companies that do not use
752 the electronic database provided by the Department of Revenue or
753 that do not exercise due diligence in applying the electronic
754 database for tax years on or after January 1, 2006, are subject

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755 to a 0.5 percent penalty on the portion of the premium pertaining
756 to any insured risk that is improperly assigned, whether assigned
757 to an improper local taxing jurisdiction, not assigned to a local
758 taxing jurisdiction when it should be assigned to a local taxing
759 jurisdiction, or assigned to a local taxing jurisdiction when it
760 should not be assigned to a local taxing jurisdiction. The review
761 for compliance with these provisions as well as the assessment of
762 such fines and penalties shall be performed by the Office of
763 Insurance Regulation of the Financial Services Commission. The
764 Department of Revenue shall assist by notifying the Office of
765 Insurance Regulation of a company's failure to report or provide
766 an adequate response to significant variances on the DR-908,
767 Schedules XII and XIII.

768 Section 15. Section 185.13, Florida Statutes, is amended to
769 read:

770 185.13 Failure of insurer to comply with chapter;
771 penalty.--If any insurance company, corporation or other insurer
772 fails to comply with the provisions of this chapter, on or before
773 March 1 in each year as herein provided, the certificate of
774 authority issued to said insurance company, corporation or other
775 insurer to transact business in this state may be canceled and
776 revoked by the Office of Insurance Regulation of the Financial
777 Services Commission, and it is unlawful for any such insurance
778 company, corporation or other insurer to transact any business
779 thereafter in this state unless such insurance company,
780 corporation or other insurer shall be granted a new certificate
781 of authority to transact business in this state, in compliance
782 with provisions of law authorizing such certificate of authority
783 to be issued. The Department of Revenue ~~division~~ shall be

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784 responsible for notifying the Office of Insurance Regulation and
785 the division regarding any such failure to comply.

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

788 185.161 Optional forms of retirement income.--For any
789 municipality, chapter plan, local law municipality, or local law
790 plan under this chapter:

791 (1)

792 (c) Notwithstanding the provisions in paragraph (b), the
793 retired police officer may change his or her designation of joint
794 annuitant or beneficiary up to two times as provided in s.
795 185.341 without the approval of the board of trustees or the
796 prior joint annuitant or beneficiary. The retiree may not be
797 required to provide proof of good health of the joint annuitant
798 or of the beneficiary being removed, and the joint annuitant or
799 beneficiary need not be living.

800 Section 17. Section 185.37, Florida Statutes, is amended to
801 read:

802 185.37 Termination of plan and distribution of fund.--For
803 any municipality, chapter plan, local law municipality, or local
804 law plan under this chapter, the plan may be terminated by the
805 municipality. Upon termination of the plan by the municipality
806 for any reason, or because of a transfer, merger, or
807 consolidation of governmental units, services, or functions as
808 provided in chapter 121, or upon written notice to the board of
809 trustees by the municipality that contributions under the plan
810 are being permanently discontinued, the rights of all employees
811 to benefits accrued to the date of such termination or
812 discontinuance and the amounts credited to the employees'

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813 accounts are nonforfeitable. The fund shall be ~~apportioned and~~
814 distributed in accordance with the following procedures:

815 (1) The board of trustees shall determine the date of
816 distribution and the asset value required to fund all the
817 nonforfeitable benefits to be distributed, after taking into
818 account the expenses of such distribution. The board shall inform
819 the municipality if additional assets are required, in which
820 event such municipality shall continue to financially support the
821 plan until all nonforfeitable benefits have been funded.

822 (2) The board of trustees shall determine the method of
823 distribution of the asset value, that is, whether distribution
824 shall be by payment in cash, by the maintenance of another or
825 substituted trust fund, by the purchase of insured annuities, or
826 otherwise, for each police officer entitled to benefits under the
827 plan, as specified in subsection (3).

828 (3) The board of trustees shall distribute ~~apportion~~ the
829 asset value as of the date of termination in the manner set forth
830 in this subsection, on the basis that the amount required to
831 provide any given retirement income shall mean the actuarially
832 computed single-sum value of such retirement income, except that
833 if the method of distribution determined under subsection (2)
834 involves the purchase of an insured annuity, the amount required
835 to provide the given retirement income shall mean the single
836 premium payable for such annuity. The actuarial single sum value
837 may not be less than the employee's accumulated contributions to
838 the plan, with interest if provided by the plan, less the value
839 of any plan benefits previously paid to the employee.

840 ~~(a) Apportionment shall first be made in respect of each~~
841 ~~retired police officer receiving a retirement income hereunder on~~

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842 ~~such date, each person receiving a retirement income on such date~~
843 ~~on account of a retired (but since deceased) police officer, and~~
844 ~~each police officer who has, by such date, become eligible for~~
845 ~~normal retirement but has not yet retired, in the amount required~~
846 ~~to provide such retirement income, provided that, if such asset~~
847 ~~value is less than the aggregate of such amounts, such amounts~~
848 ~~shall be proportionately reduced so that the aggregate of such~~
849 ~~reduced amounts will be equal to such asset value.~~

850 ~~(b) If there is any asset value remaining after the~~
851 ~~apportionment under paragraph (a), apportionment shall next be~~
852 ~~made in respect of each police officer in the service of the~~
853 ~~municipality on such date who has completed at least 10 years of~~
854 ~~credited service, in the municipal police officers' retirement~~
855 ~~trust fund for at least 10 years, and who is not entitled to an~~
856 ~~apportionment under paragraph (a), in the amount required to~~
857 ~~provide the actuarial equivalent of the accrued normal retirement~~
858 ~~income, based on the police officer's credited service and~~
859 ~~earnings to such date, and each former participant then entitled~~
860 ~~to a benefit under the provisions of s. 185.19 who has not by~~
861 ~~such date reached his or her normal retirement date, in the~~
862 ~~amount required to provide the actuarial equivalent of the~~
863 ~~accrued normal retirement income to which he or she is entitled~~
864 ~~under s. 185.19, provided that, if such remaining asset value is~~
865 ~~less than the aggregate of the amounts apportioned hereunder,~~
866 ~~such latter amounts shall be proportionately reduced so that the~~
867 ~~aggregate of such reduced amounts will be equal to such remaining~~
868 ~~asset value.~~

869 ~~(c) If there is an asset value after the apportionments~~
870 ~~under paragraphs (a) and (b), apportionment shall lastly be made~~

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871 | ~~in respect of each police officer in the service of the~~
872 | ~~municipality on such date who is not entitled to an apportionment~~
873 | ~~under paragraphs (a) and (b) in the amount equal to the police~~
874 | ~~officer's total contributions to the plan to date of termination,~~
875 | ~~provided that, if such remaining asset value is less than the~~
876 | ~~aggregate of the amounts apportioned hereunder, such latter~~
877 | ~~amounts shall be proportionately reduced so that the aggregate of~~
878 | ~~such reduced amounts will be equal to such remaining asset value.~~

879 | ~~(4)(d)~~ In the event that there is asset value remaining
880 | after the full distribution ~~apportionment~~ specified in subsection
881 | (3), and after the payment of any expenses incurred with such
882 | distribution ~~paragraphs (a), (b), and (c)~~, such excess shall be
883 | returned to the municipality, less return to the state of the
884 | state's contributions, provided that, if the excess is less than
885 | the total contributions made by the municipality and the state to
886 | date of termination of the plan, such excess shall be divided
887 | proportionately to the total contributions made by the
888 | municipality and the state.

889 | ~~(5)(4)~~ The board of trustees shall distribute, in
890 | accordance with the manner of distribution determined under
891 | subsection (2), the amounts determined ~~apportioned~~ under
892 | subsection (3).

893 |
894 | If, after a period of 24 months after the date on which the plan
895 | terminated or the date on which the board received written notice
896 | that the contributions thereunder were being permanently
897 | discontinued, the municipality or the board of trustees of the
898 | municipal police officers' retirement trust fund affected has not
899 | complied with all the provisions in this section, the Department

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900 | of Management Services ~~division~~ shall effect the termination of
901 | the fund in accordance with this section.

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