

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** CS/HB 1433 City of Orlando Firefighter Pension Fund, Orange County  
**SPONSOR(S):** Military & Local Affairs Policy Committee, Nelson  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>Military &amp; Local Affairs Policy Committee</u>	<u>14 Y, 0 N, As CS</u>	<u>Fudge</u>	<u>Hoagland</u>
2)	<u>Economic Development &amp; Community Affairs Policy Council</u>	<u>14 Y, 0 N</u>	<u>Fudge</u>	<u>Tinker</u>
3)	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4)	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5)	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

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**SUMMARY ANALYSIS**

A 1945 special act of the Legislature created the authority for the City of Orlando’s Firefighter Pension Fund. Chapter 175, F.S., defines standards for the organizational, operational and actuarial structure of the plan.

The bill makes changes to the pension plan by: providing that an involuntarily determined permanently and totally disabled, not in the line of duty, member may choose to receive normal retirement benefits under certain conditions; changes the accrual rate for normal retirement benefits and line of duty death benefits; extends Back DROP (Deferred Retirement Option Program) from 36 to 60 months.

The bill also authorizes the legislative body to make changes to comply with applicable law and to create a SHARE plan to provide extra benefits for members. The act is subject to collective bargaining.

As detailed in the consulting actuary’s January 21, 2009, actuarial impact statement, the proposed bill will increase the Fund’s costs by 3.0% of payroll. This increase will be funded entirely by Chapter 99-1 funds under section 175.351., F.S., allocated to the City of Orlando Firefighters’ Pension Fund.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### Firefighter Pension Plans/Ch. 175, F.S.

Chapter 175, F.S., establishes a "uniform retirement system" providing defined benefit retirement plans for firefighters<sup>1</sup> employed by Florida municipalities and special fire control districts, and standards for the operation and funding of these pension systems. Pension plan funding comes from a number of sources: net proceeds from an excise tax levied upon property and casualty insurance companies (known as the "premium tax"); employee contributions; fines and forfeitures; mandatory payments of any extra amount needed to keep a plan solvent; gifts and bequests; and other revenues.<sup>2</sup> To qualify for premium tax dollars, plans must meet requirements found in ch. 175, F.S.

There are two types of plans that operate under these statutes: Chapter Plans (plans that adopt the chapter by reference) and Local Law Plans (plans that are created by a special act, local ordinance or resolution that meet minimum standards set forth in s. 175.351, F.S.). Responsibility for overseeing and monitoring these plans is assigned to the Department of Management Services' Division of Retirement, but day-to-day operational control rests with local boards of trustees.

##### City of Orlando's Firefighter Pension Fund

##### *Plan History and Description*

A 1945 special act of the Legislature created the authority for the City of Orlando's Firefighter Pension Fund. Chapter 175, F.S., defines standards for the organizational, operational and actuarial structure of the plan.

Retirees today receive a normal benefit of 60 percent (three percent per year of service) of their average monthly salary for their last three years of service. An additional four percent of average monthly salary (times credited service) is available to retirees with 21-25 years of continuous service. The maximum retirement benefit for 25 years of credited service is 80 percent. There is no Social Security "carve out" provision.

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<sup>1</sup> Pursuant to ss. 175.041(1) and (2), F.S., such firefighters must work for municipalities or special fire control districts that have a constituted fire department or authorized volunteer fire department which owns and uses equipment for fighting fires that was in compliance with National Fire Protection Association Standards for Automotive Fire Apparatus at the time of purchase.

<sup>2</sup> Section 175.091, F.S.

In October 2000, a Deferred Retirement Option Provision (DROP) was incorporated as an enhanced benefit for participants. The DROP allows any member who has elected to participate to receive a lump sum payment for a portion of their accumulated benefit at the time that they terminate employment. To be eligible, the member must have completed at least 20 years of service, and meet various other criteria. An employee may elect to forward DROP for up to 60 months or back DROP for up to 36 months. Forward DROP participants are subject to certain employment restrictions which modify other benefits, such as reduced ability to claim a disability pension, less vacation accruals, etc.

#### *Plan Administration*

The City of Orlando's Firefighter Pension Fund is a single employer defined benefit plan covering all full-time city firefighters. Administration and responsibility for the plan is vested with the board of trustees. Chapter 175, F.S., requires that the board be comprised of five trustees serving concurrent two-year terms. By majority vote, trustees elect from among themselves a chairman, vice-chairman and secretary. Composition of the board is specified in ch. 175, F.S., as follows:

- two city residents appointed by the city council;
- two city firefighters elected by a majority of the actively employed plan participants; and,
- one member chosen by a majority of the other four members and ministerially appointed by the city council.

Three individuals serve the board in staff positions, primarily as a function of their normal position with the city. Included in this group are the Chief Financial Officer, City Treasurer and Pension Coordinator. Funding of the latter position is shared with the Police Pension Fund and General Employees' Defined Benefit Pension Fund. The board retains an outside attorney for primary legal counsel, and relies on the City Office of Legal Affairs for additional legal support. The board has a fiduciary responsibility to the plan and its participants and, as such, must exercise prudent judgment in its oversight and administration of the trust fund.

Additionally, the board employs an enrolled Actuarial Consultant to perform an annual valuation of the plan to determine the funded status, current funding requirements and to monitor trends related to assumptions, expectations and actual results. The Consultant and the Actuary services are reviewed periodically and requests for proposals issued at least every five years.

### **Effect of Proposed Changes**

#### Not in the Line of Duty

##### *Current law*

A member with at least 20 years of creditable service, who is involuntarily determined to be permanently and totally disabled not in the line of duty, may receive 60 percent of average monthly salary, plus 4 percent per year in excess of 20, up to a maximum of 80 percent total.

##### *Proposed Changes*

If that same member has not applied for not in the line of duty disability, the member may, within 30 days of a determination of permanently and totally disabled, elect to receive normal retirement benefits that the member would be entitled to receive based on years of credited service.

#### Normal Retirement

##### *Current law*

Members with between 20 and 40 years of service receive 60 percent of average monthly salary, plus 4 percent for each year above 20, not to exceed 80 percent total. Members with 40 or more years of service receive the same benefit plus 2 percent for each year over 40, not to exceed 100 percent total.

##### *Proposed Changes*

Members with between 20 and 42.5 years of service receive 68 percent of average monthly salary, plus 3.4 percent for each year above 20, not to exceed 85 percent total. Members with 42.5 or more years of service receive the same benefit plus 2 percent for each year over 42.5, not to exceed 100 percent total.

## Line of Duty Death Benefit

### *Current law*

If a member with 40 or more years of service, qualifies for benefits pursuant to "Pension for Death in the Line of Duty", the monthly pension is 75 percent of eighty percent of the member's average monthly salary plus 2 percent over the 80 percent for each year of service in excess of 40 years.

### *Proposed Changes*

Members with 23.5 or more years of service would receive 75 percent of 80 percent of the member's average monthly salary, plus 3.4 percent over the 80 percent for each year of service over 23.5, not to exceed 85 percent. Members with 42.5 or more years of credited service will receive an additional 2 percent for each year in excess of 42.5, not to exceed 100 percent.

## Back DROP

### *Current law*

Back DROP allows a member to retire with a retroactive date of retirement, no earlier than the date they became eligible for retirement and no more than 36 months prior to the date of the Back DROP election.

### *Proposed Changes*

The Back DROP period is increased to 60 months and the amount is calculated based on the plan provisions in effect on the date the firefighter separates from service and not as of the member's retroactive date of retirement. In addition, effective with the start date for forward DROP a member is not entitled to any change in pension benefits unless specifically provided otherwise.

## Payment of DROP Balance

### *Current law*

The payment of the balance of a DROP account through direct rollover or lump sum, is paid directly to the custodian of an eligible retirement plan under § 402(c)(8)(B) of the Internal Revenue Code. For an eligible rollover to a widow or widower, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in § 402(c)(9), of the Internal Revenue Code.

### *Proposed Changes*

Payments would be made to the custodian of an eligible retirement plan pursuant to the then applicable provisions of the Internal Revenue Code. The restrictions on a widow or widower are removed.

## Other Changes

The bill also allows the legislative body of the City of Orlando to make changes necessary to maintain tax qualification and comply with mandatory and optional provisions of the Internal Revenue Code applicable to governmental pension plans for firefighters. The bill also allows the legislative body to amend the pension plan to create a SHARE program or plan to provide extra benefits funded by additional tax premium revenues subject to the agreement of the collective bargaining agent of the members. Any member who separated employment or entered forward DROP prior to July 1, 2009, is not entitled to any additional benefits, unless otherwise specified. The bill provides that it is an enabling act contingent upon a contractual agreement through collective bargaining.

## SECTION DIRECTORY:

Section 1: Amend provisions of the Pension Plan.

Section 2: Provides effect of changes on those who separated or entered forward DROP prior to July 1, 2009.

Section 3: Provides for collective bargaining.

Section 4: Provides effective dates for the act.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 27, 2009.

WHERE? IN the *Orlando Sentinel*, a daily newspaper published in Orange County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

The Economic Impact Statement indicates that "any significant costs are expected to be covered by past and future ch. 175 distributions."

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Actuarial Statement of Fiscal Soundness prepared by the Department of Management Services provides:

1. This bill affects neither the Florida Retirement System nor the System's Trust Fund.
2. This bill complies with the requirements of Article X, Section 14 of the Constitution.
3. This bill satisfies the actuarial cost impact provisions of Chapter 112, Part VII, F.S.
4. As detailed in the consulting actuary's January 21, 2009, actuarial impact statement, the proposed bill will increase the Fund's costs by 3.0% of payroll. This increase will be funded entirely by Chapter 99-1 funds under section 175.351., F.S., allocated to the City of Orlando Firefighters' Pension Fund.

## IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2009, the Military & Local Affairs Policy Committee adopted an amendment to remove the retroactive effective date for portions of the bill.