

1 A bill to be entitled
2 An act relating to firefighters and municipal police
3 officers; amending s. 175.032, F.S.; revising the
4 definition of the term "creditable service" for purposes
5 of determining credit for prior service as a firefighter;
6 revising the definition of the term "firefighter";
7 amending s. 175.061, F.S.; authorizing the terms of office
8 for the board of trustees of the firefighters' pension
9 trust fund to be revised under certain circumstances;
10 authorizing the firefighters' pension trust fund plan
11 administrator to withhold funds to pay for premiums for
12 accident, health, and long-term care insurance for the
13 retiree and the retiree's spouse and dependents; providing
14 an exemption from liability under certain circumstances;
15 amending s. 175.071, F.S.; requiring the board of trustees
16 to perform its powers subject to certain fiduciary
17 standards and ethics provisions; increasing the percentage
18 of assets of the firefighters' pension trust fund that the
19 board of trustees may invest in foreign securities on a
20 market-value basis; providing that investment caps on
21 foreign securities may only be revised, amended,
22 increased, or repealed by an act of the Legislature;
23 authorizing certain individuals to sign drafts issued upon
24 the firefighters' pension trust fund; requiring the board
25 of trustees to identify and divest of any scrutinized
26 companies by a certain date; amending s. 175.171, F.S.;
27 authorizing retired firefighters to change their
28 designation of joint annuitant or beneficiary up to two

29 | times without the approval of the board of trustees or the
30 | prior joint annuitant or beneficiary; conforming
31 | provisions relating to joint pensioner or beneficiary to
32 | reflect joint annuitant or beneficiary; amending s.
33 | 175.361, F.S.; revising fund distribution procedures with
34 | respect to plan termination; providing that the Department
35 | of Management Services shall effect the termination of the
36 | fund; amending s. 185.02, F.S.; revising the definition of
37 | the term "creditable service" for purposes of determining
38 | credit for prior service as a police officer; amending s.
39 | 185.03, F.S.; clarifying the applicability of ch. 185,
40 | F.S.; amending s. 185.05, F.S.; revising municipal police
41 | officers' retirement trust fund board of trustee selection
42 | procedures; authorizing the terms of office for the board
43 | of trustees of the municipal police officers' retirement
44 | trust fund to be revised under certain circumstances;
45 | authorizing the plan administrator to withhold funds to
46 | pay for premiums for accident, health, and long-term care
47 | insurance for the retiree and the retiree's spouse and
48 | dependents; providing an exemption from liability under
49 | certain circumstances; amending s. 185.06, F.S.; requiring
50 | the board of trustees to perform its powers subject to
51 | certain fiduciary standards and ethics provisions;
52 | increasing the percentage of assets of the municipal
53 | police officers' retirement trust fund that the board of
54 | trustees may invest in foreign securities on a market-
55 | value basis; providing that the investment cap on foreign
56 | securities may only be revised, amended, increased, or

57 repealed by an act of the Legislature; authorizing certain
 58 individuals to sign drafts issued upon the municipal
 59 police officers' retirement trust fund; requiring the
 60 board of trustees to identify and divest of any
 61 scrutinized companies by a certain date; amending s.
 62 185.08, F.S.; making editorial changes; amending s.
 63 185.161, F.S.; authorizing retired police officers to
 64 change their designation of joint annuitant or beneficiary
 65 up to two times without the approval of the board of
 66 trustees or the prior joint annuitant or beneficiary;
 67 conforming provisions relating to joint pensioner or
 68 beneficiary to reflect joint annuitant or beneficiary;
 69 amending s. 185.37, F.S.; revising fund distribution
 70 procedures with respect to plan termination; providing
 71 that the Department of Management Services shall effect
 72 the termination of the fund; providing an effective date.

73

74 Be It Enacted by the Legislature of the State of Florida:

75

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

79 175.032 Definitions.--For any municipality, special fire
 80 control district, chapter plan, local law municipality, local
 81 law special fire control district, or local law plan under this
 82 chapter, the following words and phrases have the following
 83 meanings:

CS/CS/HB 5

2009

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

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

107 (8) (a) "Firefighter" means any person employed solely by a
108 constituted fire department of any municipality or special fire
109 control district who is certified as a firefighter as a
110 condition of employment in accordance with the provisions of s.
111 633.35 and whose duty it is to extinguish fires, to protect

112 | life, or to protect property. "Firefighter" includes all
 113 | certified supervisory and command personnel whose duties
 114 | include, in whole or in part, the supervision, training,
 115 | guidance, and management responsibilities of full-time
 116 | firefighters, part-time firefighters, or auxiliary firefighters
 117 | but does not include part-time firefighters or auxiliary
 118 | firefighters. However, for purposes of this chapter only,
 119 | "firefighter" also includes public safety officers who are
 120 | responsible for performing both police and fire services, who
 121 | are certified as police officers or firefighters, and who are
 122 | certified by their employers to the Chief Financial Officer as
 123 | participating in this chapter prior to October 1, 1979.
 124 | Effective October 1, 1979, public safety officers who have not
 125 | been certified as participating in this chapter shall be
 126 | considered police officers for retirement purposes and shall be
 127 | eligible to participate in chapter 185. Any plan may provide
 128 | that the fire chief shall have an option to participate, or not,
 129 | in that plan.

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

132 | 175.061 Board of trustees; members; terms of office;
 133 | meetings; legal entity; costs; attorney's fees.--For any
 134 | municipality, special fire control district, chapter plan, local
 135 | law municipality, local law special fire control district, or
 136 | local law plan under this chapter:

137 | (1) In each municipality and in each special fire control
 138 | district there is hereby created a board of trustees of the
 139 | firefighters' pension trust fund, which shall be solely

140 responsible for administering the trust fund. Effective October
141 1, 1986, and thereafter:

142 (a) The membership of the board of trustees for a chapter
143 plan shall consist of five members, two of whom, unless
144 otherwise prohibited by law, shall be legal residents of the
145 municipality or special fire control district, who shall be
146 appointed by the governing body of the municipality or special
147 fire control district, and two of whom shall be full-time
148 firefighters as defined in s. 175.032 who shall be elected by a
149 majority of the active firefighters who are members of such
150 plan. With respect to any chapter plan or local law plan that,
151 on January 1, 1997, allowed retired firefighters to vote in such
152 elections, retirees may continue to vote in such elections. The
153 fifth member shall be chosen by a majority of the previous four
154 members as provided for herein, and such person's name shall be
155 submitted to the governing body of the municipality or special
156 fire control district. Upon receipt of the fifth person's name,
157 the governing body of the municipality or special fire control
158 district shall, as a ministerial duty, appoint such person to
159 the board of trustees as its fifth member. The fifth member
160 shall have the same rights as each of the other four members
161 appointed or elected as herein provided, shall serve as trustee
162 for a period of 2 years, and may succeed himself or herself in
163 office. Each resident member shall serve as trustee for a period
164 of 2 years, unless sooner replaced by the governing body at
165 whose pleasure he or she shall serve, and may succeed himself or
166 herself as a trustee. Each firefighter member shall serve as
167 trustee for a period of 2 years, unless he or she sooner leaves

CS/CS/HB 5

2009

168 the employment of the municipality or special fire control
169 district as a firefighter, whereupon a successor shall be chosen
170 in the same manner as an original appointment. Each firefighter
171 may succeed himself or herself in office. The terms of office of
172 the appointed and elected members of the board of trustees may
173 be amended by municipal ordinance, special act of the
174 Legislature, or resolution adopted by the governing body of the
175 special fire control district to extend the terms of office from
176 2 years to 4 years. The length of the terms of office shall be
177 the same for all board members.

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

194 Section 3. Subsection (1) of section 175.071, Florida
 195 Statutes, is amended, and subsection (8) is added to that
 196 section, to read:

197 175.071 General powers and duties of board of
 198 trustees.--For any municipality, special fire control district,
 199 chapter plan, local law municipality, local law special fire
 200 control district, or local law plan under this chapter:

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

204 (a) Invest and reinvest the assets of the firefighters'
 205 pension trust fund in annuity and life insurance contracts of
 206 life insurance companies in amounts sufficient to provide, in
 207 whole or in part, the benefits to which all of the participants
 208 in the firefighters' pension trust fund shall be entitled under
 209 the provisions of this chapter and pay the initial and
 210 subsequent premiums thereon.

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

213 1. Time or savings accounts of a national bank, a state
 214 bank insured by the Bank Insurance Fund, or a savings, building,
 215 and loan association insured by the Savings Association
 216 Insurance Fund which is administered by the Federal Deposit
 217 Insurance Corporation or a state or federal chartered credit
 218 union whose share accounts are insured by the National Credit
 219 Union Share Insurance Fund.

220 2. Obligations of the United States or obligations
 221 guaranteed as to principal and interest by the government of the
 222 United States.

223 3. Bonds issued by the State of Israel.

224 4. Bonds, stocks, or other evidences of indebtedness
 225 issued or guaranteed by a corporation organized under the laws
 226 of the United States, any state or organized territory of the
 227 United States, or the District of Columbia, provided:

228 a. The corporation is listed on any one or more of the
 229 recognized national stock exchanges or on the National Market
 230 System of the NASDAQ Stock Market and, in the case of bonds
 231 only, holds a rating in one of the three highest classifications
 232 by a major rating service; and

233 b. The board of trustees shall not invest more than 5
 234 percent of its assets in the common stock or capital stock of
 235 any one issuing company, nor shall the aggregate investment in
 236 any one issuing company exceed 5 percent of the outstanding
 237 capital stock of that company or the aggregate of its
 238 investments under this subparagraph at cost exceed 50 percent of
 239 the assets of the fund.

240
 241 This paragraph shall apply to all boards of trustees and
 242 participants. However, in the event that a municipality or
 243 special fire control district has a duly enacted pension plan
 244 pursuant to, and in compliance with, s. 175.351, and the
 245 trustees thereof desire to vary the investment procedures
 246 herein, the trustees of such plan shall request a variance of
 247 the investment procedures as outlined herein only through a

248 municipal ordinance, special act of the Legislature, or
 249 resolution by the governing body of the special fire control
 250 district; where a special act, or a municipality by ordinance
 251 adopted prior to July 1, 1998, permits a greater than 50-percent
 252 equity investment, such municipality shall not be required to
 253 comply with the aggregate equity investment provisions of this
 254 paragraph. Notwithstanding any other provision of law to the
 255 contrary, nothing in this section may be construed to take away
 256 any preexisting legal authority to make equity investments that
 257 exceed the requirements of this paragraph. Notwithstanding any
 258 law to the contrary, the board of trustees may invest up to 25
 259 10 percent of plan assets in foreign securities on a market-
 260 value basis. The investment cap on foreign securities may not be
 261 revised, amended, increased, or repealed except as provided by
 262 general law.

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

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

275 (e) Keep a complete record of all receipts and

CS/CS/HB 5

2009

276 disbursements and of the board's acts and proceedings.

277 (8) Notwithstanding the provisions of paragraph (1)(b) and
278 as provided in s. 215.473, the board of trustees shall identify
279 and publicly report any direct or indirect holdings it may have
280 in any scrutinized company, as defined in s. 215.473, and
281 proceed to sell, redeem, divest, or withdraw all publicly traded
282 securities it may have in such company beginning January 1,
283 2010. The divestiture of any such security must be completed by
284 March 1, 2010. The board and its named officers or investment
285 advisors may not be deemed to have breached their fiduciary duty
286 in any action taken to dispose of any such security, and the
287 board shall have satisfactorily discharged the fiduciary duties
288 of loyalty, prudence, and sole and exclusive benefit to the
289 participants of the pension fund and their beneficiaries if the
290 actions it takes are consistent with the duties imposed by s.
291 215.473, and the manner of the disposition, if any, is
292 reasonable as to the means chosen. For the purposes of effecting
293 compliance with s. 215.473, the pension fund shall designate
294 terror-free plans that allocate their funds among securities not
295 subject to divestiture. No person may bring any civil, criminal,
296 or administrative action against the board of trustees or any
297 employee, officer, director, or advisor of such pension fund
298 based upon the divestiture of any security pursuant to this
299 subsection.

300 Section 4. Paragraphs (b) and (c) of subsection (1) and
301 paragraph (b) of subsection (2) of section 175.171, Florida
302 Statutes, are amended to read:

303 175.171 Optional forms of retirement income.--For any
 304 municipality, special fire control district, chapter plan, local
 305 law municipality, local law special fire control district, or
 306 local law plan under this chapter:

307 (1) In lieu of the amount and form of retirement income
 308 payable in the event of normal or early retirement as specified
 309 in s. 175.162, a firefighter, upon written request to the board
 310 of trustees and subject to the approval of the board of
 311 trustees, may elect to receive a retirement income or benefit of
 312 equivalent actuarial value payable in accordance with one of the
 313 following options:

314 (b) A retirement income of a modified monthly amount,
 315 payable to the firefighter during the joint lifetime of the
 316 firefighter and a joint annuitant ~~pensioner~~ designated by the
 317 firefighter, and following the death of either of them, 100
 318 percent, 75 percent, 66 2/3 percent, or 50 percent of such
 319 monthly amounts payable to the survivor for the lifetime of the
 320 survivor.

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

324 1. The firefighter upon electing any option of this
 325 section shall ~~will~~ designate the joint annuitant ~~pensioner~~ or
 326 beneficiary ~~(or beneficiaries)~~ to receive the benefit, if any,
 327 payable under the plan in the event of his or her death, and may
 328 ~~will have the power to~~ change such designation ~~from time to~~
 329 ~~time~~, but any such change shall be deemed a new election and is
 330 ~~will be~~ subject to approval by the board of trustees. Such

CS/CS/HB 5

2009

331 designation must ~~will~~ name a joint annuitant ~~pensioner~~ or one or
332 more primary beneficiaries where applicable. If a firefighter
333 has elected an option with a joint annuitant ~~pensioner~~ or
334 beneficiary and his or her retirement income benefits have
335 commenced, the firefighter may ~~thereafter~~ change the designated
336 joint annuitant ~~pensioner~~ or beneficiary, but only if the board
337 of trustees consents to such change and if the joint annuitant
338 ~~pensioner~~ last previously designated by the firefighter is alive
339 when the firefighter files with the board of trustees a request
340 for such change.

341 2. The consent of a firefighter's joint annuitant
342 ~~pensioner~~ or beneficiary to any such change is ~~shall not be~~
343 required.

344 3. The board of trustees may request ~~such~~ evidence of the
345 good health of the joint annuitant ~~pensioner~~ that is being
346 removed ~~as it may require~~ and the amount of the retirement
347 income payable to the firefighter upon designation of a new
348 joint annuitant ~~pensioner~~ shall be actuarially redetermined
349 taking into account the age and gender ~~sex~~ of the former joint
350 annuitant ~~pensioner~~, the new joint annuitant ~~pensioner~~, and the
351 firefighter. Each ~~such~~ designation shall ~~will~~ be made in writing
352 on a form prepared by the board of trustees and ~~on completion~~
353 ~~will be~~ filed with the board of trustees. If ~~In the event that~~
354 no designated beneficiary survives the firefighter, such
355 benefits as are payable in the event of the death of the
356 firefighter subsequent to his or her retirement shall be paid as
357 provided in s. 175.181.

CS/CS/HB 5

2009

358 4. Notwithstanding the provisions of this paragraph, a
 359 retired firefighter may change his or her designation of joint
 360 annuitant or beneficiary up to two times as provided in s.
 361 175.333 without the approval of the board of trustees or the
 362 current joint annuitant or beneficiary. The retiree need not
 363 provide proof of the good health of the joint annuitant or
 364 beneficiary being removed, and the joint annuitant or
 365 beneficiary being removed need not be living.

366 (2) Retirement income payments shall be made under the
 367 option elected in accordance with the provisions of this section
 368 and shall be subject to the following limitations:

369 (b) If the designated beneficiary ~~(or beneficiaries)~~ or
 370 joint annuitant pensioner dies before the firefighter's
 371 retirement under the plan, the option elected will be canceled
 372 automatically and a retirement income of the normal form and
 373 amount will be payable to the firefighter upon retirement as if
 374 the election had not been made, unless a new election is made in
 375 accordance with the provisions of this section or a new
 376 beneficiary is designated by the firefighter before his or her
 377 ~~prior to~~ retirement and within 90 days after the death of the
 378 beneficiary.

379 Section 5. Section 175.361, Florida Statutes, is amended
 380 to read:

381 175.361 Termination of plan and distribution of fund.--For
 382 any municipality, special fire control district, chapter plan,
 383 local law municipality, local law special fire control district,
 384 or local law plan under this chapter, the plan may be terminated
 385 by the municipality or special fire control district. Upon

386 termination of the plan by the municipality or special fire
 387 control district for any reason or because of a transfer,
 388 merger, or consolidation of governmental units, services, or
 389 functions as provided in chapter 121, or upon written notice by
 390 the municipality or special fire control district to the board
 391 of trustees that contributions under the plan are being
 392 permanently discontinued, the rights of all employees to
 393 benefits accrued to the date of such termination and the amounts
 394 credited to the employees' accounts are nonforfeitable. The fund
 395 shall be ~~apportioned and~~ distributed in accordance with the
 396 following procedures:

397 (1) The board of trustees shall determine the date of
 398 distribution and the asset value required to fund all the
 399 nonforfeitable benefits ~~to be distributed~~, after taking into
 400 account the expenses of such distribution. The board shall
 401 inform the municipality or special fire control district if
 402 additional assets are required, in which event the municipality
 403 or special fire control district shall continue to financially
 404 support the plan until all nonforfeitable benefits have been
 405 funded.

406 (2) The board of trustees shall determine the method of
 407 distribution of the asset value, that is, whether distribution
 408 shall be by payment in cash, by the maintenance of another or
 409 substituted trust fund, by the purchase of insured annuities, or
 410 otherwise, for each firefighter entitled to benefits under the
 411 plan as specified in subsection (3).

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

CS/CS/HB 5

2009

414 forth in this subsection, on the basis that the amount required
415 to provide any given retirement income shall mean the
416 actuarially computed single-sum value of such retirement income,
417 except that if the method of distribution determined under
418 subsection (2) involves the purchase of an insured annuity, the
419 amount required to provide the given retirement income shall
420 mean the single premium payable for such annuity. The actuarial
421 single-sum value shall not be less than the employee's
422 accumulated contributions to the plan, with interest if provided
423 by the plan, less the value of any plan benefits previously paid
424 to the employee.

425 ~~(a) Apportionment shall first be made in respect of each~~
426 ~~retired firefighter receiving a retirement income hereunder on~~
427 ~~such date, each person receiving a retirement income on such~~
428 ~~date on account of a retired (but since deceased) firefighter,~~
429 ~~and each firefighter who has, by such date, become eligible for~~
430 ~~normal retirement but has not yet retired, in the amount~~
431 ~~required to provide such retirement income, provided that, if~~
432 ~~such asset value is less than the aggregate of such amounts,~~
433 ~~such amounts shall be proportionately reduced so that the~~
434 ~~aggregate of such reduced amounts will be equal to such asset~~
435 ~~value.~~

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

CS/CS/HB 5

2009

442 ~~is not entitled to an apportionment under paragraph (a), in the~~
443 ~~amount required to provide the actuarial equivalent of the~~
444 ~~accrued normal retirement income, based on the firefighter's~~
445 ~~credited service and earnings to such date, and each former~~
446 ~~participant then entitled to a benefit under the provisions of~~
447 ~~s. 175.211 who has not by such date reached his or her normal~~
448 ~~retirement date, in the amount required to provide the actuarial~~
449 ~~equivalent of the accrued normal retirement income to which he~~
450 ~~or she is entitled under s. 175.211; provided that, if such~~
451 ~~remaining asset value is less than the aggregate of the amounts~~
452 ~~apportioned hereunder, such latter amounts shall be~~
453 ~~proportionately reduced so that the aggregate of such reduced~~
454 ~~amounts will be equal to such remaining asset value.~~

455 ~~(c) If there is any asset value after the apportionments~~
456 ~~under paragraphs (a) and (b), apportionment shall lastly be made~~
457 ~~in respect of each firefighter in the service of the~~
458 ~~municipality or special fire control district on such date who~~
459 ~~is not entitled to an apportionment under paragraphs (a) and (b)~~
460 ~~in the amount equal to the firefighter's total contributions to~~
461 ~~the plan to date of termination; provided that, if such~~
462 ~~remaining asset value is less than the aggregate of the amounts~~
463 ~~apportioned hereunder, such latter amounts shall be~~
464 ~~proportionately reduced so that the aggregate of such reduced~~
465 ~~amounts will be equal to such remaining asset value.~~

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

CS/CS/HB 5

2009

470 shall be returned to the municipality or special fire control
 471 district, less return to the state of the state's contributions,
 472 provided that, if the excess is less than the total
 473 contributions made by the municipality or special fire control
 474 district and the state to date of termination of the plan, such
 475 excess shall be divided proportionately to the total
 476 contributions made by the municipality or special fire control
 477 district and the state.

478 (5)~~(4)~~ The board of trustees shall distribute, in
 479 accordance with the manner of distribution determined under
 480 subsection (2), the amounts determined ~~apportioned~~ under
 481 subsection (3).

482

483 If, after a period of 24 months after the date on which the plan
 484 terminated or the date on which the board received written
 485 notice that the contributions thereunder were being permanently
 486 discontinued, the municipality or special fire control district
 487 or the board of trustees of the firefighters' pension trust fund
 488 affected has not complied with all the provisions in this
 489 section, the Department of Management Services ~~division~~ shall
 490 effect the termination of the fund in accordance with this
 491 section.

492 Section 6. Paragraph (c) of subsection (5) of section
 493 185.02, Florida Statutes, is amended to read:

494 185.02 Definitions.--For any municipality, chapter plan,
 495 local law municipality, or local law plan under this chapter,
 496 the following words and phrases as used in this chapter shall

497 have the following meanings, unless a different meaning is
 498 plainly required by the context:

499 (5) "Creditable service" or "credited service" means the
 500 aggregate number of years of service and fractional parts of
 501 years of service of any police officer, omitting intervening
 502 years and fractional parts of years when such police officer may
 503 not have been employed by the municipality subject to the
 504 following conditions:

505 (c) Credited service under this chapter shall be provided
 506 only for service as a police officer, as defined in subsection
 507 (11), or for military service and shall not include credit for
 508 any other type of service. A municipality may, by local
 509 ordinance, provide for the purchase of credit for military
 510 service occurring prior to employment as well as prior service
 511 as a police officer for some other employer as long as the
 512 police officer is not entitled to receive a benefit for such
 513 other prior service as a police officer. For purposes of
 514 determining credit for prior service as a police officer, in
 515 addition to service as a police officer in this state, credit
 516 may be given for federal, other state, or county service, as
 517 long as such prior police service is recognized by the Criminal
 518 Justice Standards and Training Commission within the Department
 519 of Law Enforcement as provided under chapter 943 or the police
 520 officer provides proof to the board of trustees that such
 521 service is equivalent to the service required to meet the
 522 definition of a police officer under subsection (11).

523 Section 7. Subsection (2) of section 185.03, Florida
 524 Statutes, is amended to read:

525 185.03 Municipal police officers' retirement trust funds;
 526 creation; applicability of provisions; participation by public
 527 safety officers.--For any municipality, chapter plan, local law
 528 municipality, or local law plan under this chapter:

529 (2) ~~The provisions of This chapter applies shall apply~~
 530 only to municipalities organized and established under pursuant
 531 ~~to~~ the laws of the state, and does ~~said provisions shall not~~
 532 apply to the unincorporated areas of any county or counties or
 533 ~~nor shall the provisions hereof apply~~ to any governmental entity
 534 whose police officers are eligible to participate in the Florida
 535 Retirement System.

536 Section 8. Paragraph (a) of subsection (1) and subsection
 537 (6) of section 185.05, Florida Statutes, are amended to read:

538 185.05 Board of trustees; members; terms of office;
 539 meetings; legal entity; costs; attorney's fees.--For any
 540 municipality, chapter plan, local law municipality, or local law
 541 plan under this chapter:

542 (1) In each municipality described in s. 185.03 there is
 543 hereby created a board of trustees of the municipal police
 544 officers' retirement trust fund, which shall be solely
 545 responsible for administering the trust fund. Effective October
 546 1, 1986, and thereafter:

547 (a) The membership of the board of trustees for chapter
 548 plans shall consist of five members, two of whom, unless
 549 otherwise prohibited by law, shall be legal residents of the
 550 municipality, who shall be appointed by the legislative body of
 551 the municipality, and two of whom shall be police officers as
 552 defined in s. 185.02 who shall be elected by a majority of the

CS/CS/HB 5

2009

553 active police officers who are members of such plan. With
554 respect to any chapter plan or local law plan that, on January
555 1, 1997, allowed retired police officers to vote in such
556 elections, retirees may continue to vote in such elections. The
557 fifth member shall be chosen by a majority of the previous four
558 members, and such person's name shall be submitted to the
559 legislative body of the municipality. Upon receipt of the fifth
560 person's name, the legislative body of the municipality shall,
561 as a ministerial duty, appoint such person to the board of
562 trustees as its fifth member. The fifth member shall have the
563 same rights as each of the other four members appointed or
564 elected as herein provided, shall serve as trustee for a period
565 of 2 years, and may succeed himself or herself in office. Each
566 resident member shall serve as trustee for a period of 2 years,
567 unless sooner replaced by the legislative body at whose pleasure
568 the member shall serve, and may succeed himself or herself as a
569 trustee. Each police officer member shall serve as trustee for a
570 period of 2 years, unless he or she sooner leaves the employment
571 of the municipality as a police officer, whereupon ~~the~~
572 ~~legislative body of the municipality shall choose~~ a successor
573 shall be chosen in the same manner as an original appointment.
574 Each police officer may succeed himself or herself in office.
575 The terms of office of the appointed and elected members of the
576 board of trustees may be amended by municipal ordinance or
577 special act of the Legislature to extend the terms of office
578 from 2 years to 4 years. The length of the terms of office shall
579 be the same for all board members.

CS/CS/HB 5

2009

580 (6) The board of trustees may, upon written request by the
581 retiree of the plan, or by a dependent, when authorized by the
582 retiree or the retiree's beneficiary, authorize the plan
583 administrator to withhold from the monthly retirement payment
584 those funds that are necessary to pay for the benefits being
585 received through the governmental entity from which the employee
586 retired, to pay the certified bargaining agent of the
587 governmental entity, and to make any payments for child support
588 or alimony. Further, the board of trustees may, upon the written
589 request of the retiree of the plan, authorize the plan
590 administrator to withhold from the retirement payment those
591 funds that are necessary to pay for premiums for accident,
592 health, and long-term care insurance for the retiree and the
593 retiree's spouse and dependents. A retirement plan does not
594 incur any liability for participation in this permissive program
595 if its actions are taken in good faith.

596 Section 9. Subsection (1) of section 185.06, Florida
597 Statutes, is amended, and subsection (7) is added to that
598 section, to read:

599 185.06 General powers and duties of board of
600 trustees.--For any municipality, chapter plan, local law
601 municipality, or local law plan under this chapter:

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

605 (a) Invest and reinvest the assets of the retirement trust
606 fund in annuity and life insurance contracts of life insurance
607 companies in amounts sufficient to provide, in whole or in part,

608 the benefits to which all of the participants in the municipal
 609 police officers' retirement trust fund shall be entitled under
 610 the provisions of this chapter, and pay the initial and
 611 subsequent premiums thereon.

612 (b) Invest and reinvest the assets of the retirement trust
 613 fund in:

614 1. Time or savings accounts of a national bank, a state
 615 bank insured by the Bank Insurance Fund, or a savings and loan
 616 association insured by the Savings Association Insurance Fund
 617 which is administered by the Federal Deposit Insurance
 618 Corporation or a state or federal chartered credit union whose
 619 share accounts are insured by the National Credit Union Share
 620 Insurance Fund.

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

623 3. Bonds issued by the State of Israel.

624 4. Bonds, stocks, or other evidences of indebtedness
 625 issued or guaranteed by a corporation organized under the laws
 626 of the United States, any state or organized territory of the
 627 United States, or the District of Columbia, provided:

628 a. The corporation is listed on any one or more of the
 629 recognized national stock exchanges or on the National Market
 630 System of the NASDAQ Stock Market and, in the case of bonds
 631 only, holds a rating in one of the three highest classifications
 632 by a major rating service; and

633 b. The board of trustees shall not invest more than 5
 634 percent of its assets in the common stock or capital stock of
 635 any one issuing company, nor shall the aggregate investment in

CS/CS/HB 5

2009

636 any one issuing company exceed 5 percent of the outstanding
637 capital stock of the company or the aggregate of its investments
638 under this subparagraph at cost exceed 50 percent of the fund's
639 assets.

640
641 This paragraph shall apply to all boards of trustees and
642 participants. However, in the event that a municipality has a
643 duly enacted pension plan pursuant to, and in compliance with,
644 s. 185.35 and the trustees thereof desire to vary the investment
645 procedures herein, the trustees of such plan shall request a
646 variance of the investment procedures as outlined herein only
647 through a municipal ordinance or special act of the Legislature;
648 where a special act, or a municipality by ordinance adopted
649 prior to July 1, 1998, permits a greater than 50-percent equity
650 investment, such municipality shall not be required to comply
651 with the aggregate equity investment provisions of this
652 paragraph. Notwithstanding any other provision of law to the
653 contrary, nothing in this section may be construed to take away
654 any preexisting legal authority to make equity investments that
655 exceed the requirements of this paragraph. Notwithstanding any
656 law to the contrary, the board of trustees may invest up to 25
657 10 percent of plan assets in foreign securities on a market-
658 value basis. The investment cap on foreign securities may not be
659 revised, amended, increased, or repealed except as provided by
660 general law.

661 (c) Issue drafts upon the municipal police officers'
662 retirement trust fund pursuant to this act and rules and
663 regulations prescribed by the board of trustees. All such drafts

CS/CS/HB 5

2009

664 shall be consecutively numbered, be signed by the chair and
665 secretary or by two individuals designated by the board who are
666 subject to the same fiduciary standards as required for the
667 board of trustees under this subsection, and state upon their
668 faces the purposes for which the drafts are drawn. The city
669 treasurer or other depository shall retain such drafts when
670 paid, as permanent vouchers for disbursements made, and no money
671 shall otherwise be drawn from the fund.

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

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

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

678 (7) Notwithstanding the provisions of paragraph (1)(b) and
679 as provided in s. 215.473, the board of trustees shall identify
680 and publicly report any direct or indirect holdings it may have
681 in any scrutinized company, as defined in s. 215.473, and
682 proceed to sell, redeem, divest, or withdraw all publicly traded
683 securities it may have in such company beginning January 1,
684 2010. The divestiture of any such security must be completed by
685 March 1, 2010. The board and its named officers or investment
686 advisors may not be deemed to have breached their fiduciary duty
687 in any action taken to dispose of any such security, and the
688 board shall have satisfactorily discharged the fiduciary duties
689 of loyalty, prudence, and sole and exclusive benefit to the
690 participants of the pension fund and their beneficiaries if the
691 actions it takes are consistent with the duties imposed by s.

692 215.473, and the manner of the disposition, if any, is
 693 reasonable as to the means chosen. For the purposes of effecting
 694 compliance with s. 215.473, the pension fund shall designate
 695 terror-free plans that allocate their funds among securities not
 696 subject to divestiture. No person may bring any civil, criminal,
 697 or administrative action against the board of trustees or any
 698 employee, officer, director, or advisor of such pension fund
 699 based upon the divestiture of any security pursuant to this
 700 subsection.

701 Section 10. Section 185.08, Florida Statutes, is amended
 702 to read:

703 185.08 State excise tax on casualty insurance premiums
 704 authorized; procedure.--For any municipality, chapter plan,
 705 local law municipality, or local law plan under this chapter:

706 (1) Each incorporated municipality in this state described
 707 and classified in s. 185.03, as well as each other city or town
 708 of this state which on July 31, 1953, had a lawfully established
 709 municipal police officers' retirement trust fund or city fund,
 710 by whatever name known, providing pension or relief benefits to
 711 police officers as provided under this chapter, may assess and
 712 impose on every insurance company, corporation, or other insurer
 713 now engaged in or carrying on, or who shall hereafter engage in
 714 or carry on, the business of casualty insurance as shown by
 715 records of the Office of Insurance Regulation of the Financial
 716 Services Commission, an excise tax in addition to any lawful
 717 license or excise tax now levied by each of the ~~said~~
 718 municipalities, respectively, amounting to .85 percent of the
 719 gross amount of receipts of premiums from policyholders on all

720 premiums collected on casualty insurance policies covering
 721 property within the corporate limits of such municipalities,
 722 respectively.

723 (2) In the case of multiple peril policies with a single
 724 premium for both property and casualty coverages in such
 725 policies, 30 percent of such premium shall be used as the basis
 726 for the .85-percent tax above.

727 (3) The excise tax shall be payable annually March 1 of
 728 each year after the passing of an ordinance assessing and
 729 imposing the tax herein authorized. Installments of taxes shall
 730 be paid according to ~~the provisions of~~ s. 624.5092(2) (a), (b),
 731 and (c).

732 Section 11. Subsection (1) and paragraph (b) of subsection
 733 (2) of section 185.161, Florida Statutes, are amended to read:

734 185.161 Optional forms of retirement income.--For any
 735 municipality, chapter plan, local law municipality, or local law
 736 plan under this chapter:

737 (1) (a) In lieu of the amount and form of retirement income
 738 payable in the event of normal or early retirement as specified
 739 in s. 185.16, a police officer, upon written request to the
 740 board of trustees and subject to the approval of the board of
 741 trustees, may elect to receive a retirement income or benefit of
 742 equivalent actuarial value payable in accordance with one of the
 743 following options:

744 1. A retirement income of larger monthly amount, payable
 745 to the police officer for his or her lifetime only.

746 2. A retirement income of a modified monthly amount,
 747 payable to the police officer during the joint lifetime of the

CS/CS/HB 5

2009

748 | police officer and a joint annuitant pensioner designated by the
749 | police officer, and following the death of either of them, 100
750 | percent, 75 percent, 66 2/3 percent, or 50 percent of such
751 | monthly amount payable to the survivor for the lifetime of the
752 | survivor.

753 | 3. Such other amount and form of retirement payments or
754 | benefit as, in the opinion of the board of trustees, will best
755 | meet the circumstances of the retiring police officer.

756 | (b) The police officer upon electing any option of this
757 | section shall ~~will~~ designate the joint annuitant pensioner or
758 | beneficiary ~~(or beneficiaries)~~ to receive the benefit, if any,
759 | payable under the plan in the event of the police officer's
760 | death, and may ~~will have the power to~~ change such designation
761 | ~~from time to time~~ but any such change shall be deemed a new
762 | election and is ~~will be~~ subject to approval by the pension
763 | committee. Such designation must ~~will~~ name a joint annuitant
764 | pensioner or one or more primary beneficiaries where applicable.
765 | If a police officer has elected an option with a joint annuitant
766 | pensioner or beneficiary and his or her retirement income
767 | benefits have commenced, he or she may ~~thereafter~~ change the
768 | designated joint annuitant pensioner or beneficiary but only if
769 | the board of trustees consents to such change and if the joint
770 | annuitant pensioner last previously designated by the police
771 | officer is alive when he or she files with the board of trustees
772 | a request for such change. The consent of a police officer's
773 | joint annuitant pensioner or beneficiary to any such change is
774 | ~~shall not be~~ required. The board of trustees may request ~~such~~
775 | evidence of the good health of the joint annuitant pensioner

CS/CS/HB 5

2009

776 ~~that is~~ being removed ~~as it may require~~ and the amount of the
777 retirement income payable to the police officer upon the
778 designation of a new joint annuitant ~~pensioner~~ shall be
779 actuarially redetermined taking into account the ages and gender
780 ~~sex~~ of the former joint annuitant ~~pensioner~~, the new joint
781 annuitant ~~pensioner~~, and the police officer. Each ~~such~~
782 designation shall ~~will~~ be made in writing on a form prepared by
783 the board of trustees, ~~and on completion will be~~ filed with the
784 board of trustees. ~~If In the event that~~ no designated
785 beneficiary survives the police officer, such benefits as are
786 payable in the event of the death of the police officer
787 subsequent to his or her retirement shall be paid as provided in
788 s. 185.162.

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

797 (2) Retirement income payments shall be made under the
798 option elected in accordance with the provisions of this section
799 and shall be subject to the following limitations:

800 (b) If the designated beneficiary ~~(or beneficiaries)~~ or
801 joint annuitant ~~pensioner~~ dies before the police officer's
802 retirement under the plan, the option elected will be canceled
803 automatically and a retirement income of the normal form and

804 amount will be payable to the police officer upon his or her
 805 retirement as if the election had not been made, unless a new
 806 election is made in accordance with the provisions of this
 807 section or a new beneficiary is designated by the police officer
 808 before ~~prior to~~ his or her retirement and within 90 days after
 809 the death of the beneficiary.

810 Section 12. Section 185.37, Florida Statutes, is amended
 811 to read:

812 185.37 Termination of plan and distribution of fund.--For
 813 any municipality, chapter plan, local law municipality, or local
 814 law plan under this chapter, the plan may be terminated by the
 815 municipality. Upon termination of the plan by the municipality
 816 for any reason, or because of a transfer, merger, or
 817 consolidation of governmental units, services, or functions as
 818 provided in chapter 121, or upon written notice to the board of
 819 trustees by the municipality that contributions under the plan
 820 are being permanently discontinued, the rights of all employees
 821 to benefits accrued to the date of such termination or
 822 discontinuance and the amounts credited to the employees'
 823 accounts are nonforfeitable. The fund shall be ~~apportioned and~~
 824 distributed in accordance with the following procedures:

825 (1) The board of trustees shall determine the date of
 826 distribution and the asset value required to fund all the
 827 nonforfeitable benefits ~~to be distributed~~, after taking into
 828 account the expenses of such distribution. The board shall
 829 inform the municipality if additional assets are required, in
 830 which event the municipality shall continue to financially

CS/CS/HB 5

2009

831 support the plan until all nonforfeitable benefits have been
832 funded.

833 (2) The board of trustees shall determine the method of
834 distribution of the asset value, that is, whether distribution
835 shall be by payment in cash, by the maintenance of another or
836 substituted trust fund, by the purchase of insured annuities, or
837 otherwise, for each police officer entitled to benefits under
838 the plan, as specified in subsection (3).

839 (3) The board of trustees shall distribute ~~apportion~~ the
840 asset value as of the date of termination in the manner set
841 forth in this subsection, on the basis that the amount required
842 to provide any given retirement income shall mean the
843 actuarially computed single-sum value of such retirement income,
844 except that if the method of distribution determined under
845 subsection (2) involves the purchase of an insured annuity, the
846 amount required to provide the given retirement income shall
847 mean the single premium payable for such annuity. The actuarial
848 single-sum value shall not be less than the employee's
849 accumulated contributions to the plan, with interest if provided
850 by the plan, less the value of any plan benefits previously paid
851 to the employee.

852 ~~(a) Apportionment shall first be made in respect of each~~
853 ~~retired police officer receiving a retirement income hereunder~~
854 ~~on such date, each person receiving a retirement income on such~~
855 ~~date on account of a retired (but since deceased) police~~
856 ~~officer, and each police officer who has, by such date, become~~
857 ~~eligible for normal retirement but has not yet retired, in the~~
858 ~~amount required to provide such retirement income, provided~~

CS/CS/HB 5

2009

859 ~~that, if such asset value is less than the aggregate of such~~
860 ~~amounts, such amounts shall be proportionately reduced so that~~
861 ~~the aggregate of such reduced amounts will be equal to such~~
862 ~~asset value.~~

863 ~~(b) If there is any asset value remaining after the~~
864 ~~apportionment under paragraph (a), apportionment shall next be~~
865 ~~made in respect of each police officer in the service of the~~
866 ~~municipality on such date who has completed at least 10 years of~~
867 ~~credited service, in the municipal police officers' retirement~~
868 ~~trust fund for at least 10 years, and who is not entitled to an~~
869 ~~apportionment under paragraph (a), in the amount required to~~
870 ~~provide the actuarial equivalent of the accrued normal~~
871 ~~retirement income, based on the police officer's credited~~
872 ~~service and earnings to such date, and each former participant~~
873 ~~then entitled to a benefit under the provisions of s. 185.19 who~~
874 ~~has not by such date reached his or her normal retirement date,~~
875 ~~in the amount required to provide the actuarial equivalent of~~
876 ~~the accrued normal retirement income to which he or she is~~
877 ~~entitled under s. 185.19, provided that, if such remaining asset~~
878 ~~value is less than the aggregate of the amounts apportioned~~
879 ~~hereunder, such latter amounts shall be proportionately reduced~~
880 ~~so that the aggregate of such reduced amounts will be equal to~~
881 ~~such remaining asset value.~~

882 ~~(c) If there is an asset value after the apportionments~~
883 ~~under paragraphs (a) and (b), apportionment shall lastly be made~~
884 ~~in respect of each police officer in the service of the~~
885 ~~municipality on such date who is not entitled to an~~
886 ~~apportionment under paragraphs (a) and (b) in the amount equal~~

CS/CS/HB 5

2009

887 ~~to the police officer's total contributions to the plan to date~~
888 ~~of termination, provided that, if such remaining asset value is~~
889 ~~less than the aggregate of the amounts apportioned hereunder,~~
890 ~~such latter amounts shall be proportionately reduced so that the~~
891 ~~aggregate of such reduced amounts will be equal to such~~
892 ~~remaining asset value.~~

893 (4)~~(d)~~ In the event that there is asset value remaining
894 after the full distribution ~~apportionment~~ specified in
895 subsection (3), and after the payment of any expenses incurred
896 with such distribution ~~paragraphs (a), (b), and (c),~~ such excess
897 shall be returned to the municipality, less return to the state
898 of the state's contributions, provided that, if the excess is
899 less than the total contributions made by the municipality and
900 the state to date of termination of the plan, such excess shall
901 be divided proportionately to the total contributions made by
902 the municipality and the state.

903 (5)~~(4)~~ The board of trustees shall distribute, in
904 accordance with the manner of distribution determined under
905 subsection (2), the amounts determined ~~apportioned~~ under
906 subsection (3).

907
908 If, after a period of 24 months after the date on which the plan
909 terminated or the date on which the board received written
910 notice that the contributions thereunder were being permanently
911 discontinued, the municipality or the board of trustees of the
912 municipal police officers' retirement trust fund affected has
913 not complied with all the provisions in this section, the

CS/CS/HB 5

2009

914 | Department of Management Services ~~division~~ shall effect the
915 | termination of the fund in accordance with this section.

916 | Section 13. This act shall take effect July 1, 2009.