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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Community Affairs (Bennett) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "Florida Pension Protection and Transparency Act."

Section 2. Subsection (1) of section 112.65, Florida Statutes, is amended to read:

112.65 Limitation of benefits.—

(1) ESTABLISHMENT OF PROGRAM.—On or after January 1, 1980, the normal retirement benefit or pension payable to a retiree who becomes a member of any retirement system or plan and who has



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13 not previously participated in such plan ~~may, on or after~~  
14 ~~January 1, 1980, shall~~ not exceed 100 percent of his or her  
15 average final compensation. Notwithstanding any other provisions  
16 of law to the contrary, overtime, accrued unused sick leave or  
17 other leave, or any form of payment other than the member's base  
18 hourly or yearly salary may not be included when calculating  
19 average final compensation for new public employees that are  
20 hired after July 1, 2010. However, ~~nothing contained in this~~  
21 ~~limitation does not~~ ~~section shall~~ apply to supplemental  
22 retirement benefits or to pension increases attributable to  
23 cost-of-living increases or adjustments. For the purposes of  
24 this section, benefits accruing in individual participant  
25 accounts established under the Public Employee Optional  
26 Retirement Program established in part II of chapter 121 are  
27 considered supplemental benefits. As used in this section, the  
28 term "average final compensation" means the average of the  
29 member's earnings over a period of time which the governmental  
30 entity has established by statute, charter, or ordinance.

31 Section 3. Paragraphs (a) and (b) of subsection (1) of  
32 section 175.061, Florida Statutes, are amended to read:

33 175.061 Board of trustees; members; terms of office;  
34 meetings; legal entity; costs; attorney's fees.—For any  
35 municipality, special fire control district, chapter plan, local  
36 law municipality, local law special fire control district, or  
37 local law plan under this chapter:

38 (1) In each municipality and in each special fire control  
39 district there is hereby created a board of trustees of the  
40 firefighters' pension trust fund, which shall be solely  
41 responsible for administering the trust fund. Effective October



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42 1, 1986, and thereafter:

43 (a) The membership of the board of trustees for a chapter  
44 plan consists of five members, two of whom, unless otherwise  
45 prohibited by law, must be legal residents of the municipality  
46 or special fire control district, may not be members or retirees  
47 of the plan whose funds the board administers, and must be  
48 appointed by the governing body of the municipality or special  
49 fire control district, and two of whom must be full-time  
50 firefighters ~~as defined in s. 175.032~~ who are elected by a  
51 majority of the active firefighters who are members of such  
52 plan. With respect to any chapter plan or local law plan that,  
53 on January 1, 1997, allowed retired firefighters to vote in such  
54 elections, retirees may continue to vote in such elections. The  
55 fifth member shall be chosen by a majority of the other previous  
56 four members and may not be a member or retiree of the plan  
57 whose funds the board administers. ~~as provided herein,~~ and Such  
58 person's name shall be submitted to the governing body of the  
59 municipality or special fire control district. Upon receipt of  
60 the fifth person's name, the governing body of the municipality  
61 or special fire control district shall, as a ministerial duty,  
62 appoint such person to the board of trustees. The fifth member  
63 has ~~shall have~~ the same rights as each of the other four  
64 members, shall serve as trustee for a period of 2 years, and may  
65 succeed himself or herself in office. Each resident member shall  
66 serve as trustee for a period of 2 years, unless sooner replaced  
67 by the governing body at whose pleasure he or she serves, and  
68 may succeed himself or herself as a trustee. Each firefighter  
69 member shall serve as trustee for a period of 2 years, unless he  
70 or she sooner leaves the employment of the municipality or



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71 special fire control district as a firefighter, whereupon a  
72 successor shall be chosen in the same manner as an original  
73 appointment. Each firefighter may succeed himself or herself in  
74 office. The terms of office of the appointed and elected members  
75 may be amended by municipal ordinance, special act of the  
76 Legislature, or resolution adopted by the governing body of the  
77 special fire control district to extend the terms from 2 years  
78 to 4 years. The length of the terms of office are ~~shall be~~ the  
79 same for all board members.

80 (b) The membership of boards of trustees for local law  
81 plans is ~~shall be~~ as follows:

82 1. If a municipality or special fire control district has a  
83 pension plan for firefighters only, the provisions of paragraph  
84 (a) ~~shall~~ apply.

85 2. If a municipality has a pension plan for firefighters  
86 and police officers, the provisions of paragraph (a) ~~shall~~  
87 apply, except that one member of the board must ~~shall~~ be a  
88 firefighter ~~as defined in s. 175.032~~ and one member of the board  
89 must ~~shall~~ be a police officer as defined in s. 185.02,  
90 respectively elected by a majority of the active firefighters or  
91 police officers who are members of the plan.

92 3. A ~~Any~~ board of trustees operating a local law plan on  
93 July 1, 1999, which is combined with a plan for general  
94 employees shall hold an election of the firefighters, or  
95 firefighters and police officers, if included, to determine  
96 whether a plan is to be established for firefighters only, or  
97 for firefighters and police officers where included. Based on  
98 the election results, a new board shall be established as  
99 provided in subparagraph 1. or subparagraph 2., as appropriate.



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100 The municipality or fire control district shall enact an  
101 ordinance or resolution to implement the new board by October 1,  
102 1999. The newly established board shall take whatever action is  
103 necessary to determine the amount of assets ~~which is~~  
104 attributable to firefighters, or firefighters and police  
105 officers where included. Such assets ~~shall~~ include all employer,  
106 employee, and state contributions made by or on behalf of  
107 firefighters, or firefighters and police officers where  
108 included, and any investment income derived from such  
109 contributions. All such moneys shall be transferred into the  
110 newly established retirement plan, as directed by the board.

111  
112 With respect to a any board of trustees operating a local law  
113 plan on June 30, 1986, ~~nothing in~~ this paragraph does not shall  
114 permit the reduction of the membership percentage of  
115 firefighters, or ~~of~~ firefighters and police officers where a  
116 joint or mixed fund exists. A municipality may change the  
117 municipal representation on the board of trustees operating a  
118 local law plan by ordinance if such change does not reduce the  
119 membership percentage of firefighters, or firefighters and  
120 police officers, that existed on June 30, 1986.

121 Section 4. Paragraph (b) of subsection (2) of section  
122 175.091, Florida Statutes, is amended to read:

123 175.091 Creation and maintenance of fund.—For any  
124 municipality, special fire control district, chapter plan, local  
125 law municipality, local law special fire control district, or  
126 local law plan under this chapter:

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

128 (b) Firefighter member contributions may be increased by



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129 consent of the members' collective bargaining representative or,  
130 if none, by majority consent of firefighter members of the fund  
131 to ~~provide greater benefits.~~

132  
133 Nothing in this section shall be construed to require adjustment  
134 of member contribution rates in effect on the date this act  
135 becomes a law, including rates that exceed 5 percent of salary,  
136 provided that such rates are at least one-half of 1 percent of  
137 salary.

138 Section 5. Paragraph (a) of subsection (3) of section  
139 175.351, Florida Statutes, is amended, and subsection (5) is  
140 added to that section, to read:

141 175.351 Municipalities and special fire control districts  
142 having their own pension plans for firefighters.—For any  
143 municipality, special fire control district, local law  
144 municipality, local law special fire control district, or local  
145 law plan under this chapter, in order for municipalities and  
146 special fire control districts with their own pension plans for  
147 firefighters, or for firefighters and police officers, where  
148 included, to participate in the distribution of the tax fund  
149 established pursuant to s. 175.101, local law plans must meet  
150 the minimum benefits and minimum standards set forth in this  
151 chapter.

152 (3) Notwithstanding any other provision, with respect to  
153 any supplemental plan municipality:

154 (a) ~~Section 175.032(3)(a) shall not apply,~~ and A local law  
155 plan and a supplemental plan may continue to use their  
156 definition of compensation or salary in existence on the  
157 effective date of this act.



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158 (5) DEFINED CONTRIBUTION PLAN.—A municipality or special fire  
159 control district may close a retirement plan subject to this  
160 chapter and establish a defined contribution plan after July 1,  
161 2010, for employees hired after the date selected by the  
162 municipality or special fire control district to establish the  
163 plan. Employees hired before that date may transfer to the  
164 defined contribution plan, but may not transfer back to the  
165 defined benefit retirement plan or belong to both plans  
166 simultaneously. A municipality or special fire control district  
167 may close a defined benefit plan subject to this chapter and  
168 join the Florida Retirement System under chapter 121 after July  
169 1, 2010, for employees hired after the date selected by the  
170 municipality or special fire control district. A municipality or  
171 special fire control district operating under this subsection  
172 shall receive and use the premium tax provided by this chapter  
173 for the closed plan until the plan is fully funded as described  
174 in s. 175.371(2), as determined by the plan's actuary.

175 Section 6. Paragraphs (a) and (b) of subsection (1) of  
176 section 185.05, Florida Statutes, are amended to read:

177 185.05 Board of trustees; members; terms of office;  
178 meetings; legal entity; costs; attorney's fees.—For any  
179 municipality, chapter plan, local law municipality, or local law  
180 plan under this chapter:

181 (1) In each municipality described in s. 185.03 there is  
182 hereby created a board of trustees of the municipal police  
183 officers' retirement trust fund, which shall be solely  
184 responsible for administering the trust fund. Effective October  
185 1, 1986, and thereafter:

186 (a) The membership of the board of trustees for chapter



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187 plans consists of five members, two of whom, unless otherwise  
188 prohibited by law, must be legal residents of the municipality,  
189 may not be members or retirees of the plan whose funds the board  
190 administers, and must be appointed by the legislative body of  
191 the municipality, and two of whom must be police officers ~~as~~  
192 ~~defined in s. 185.02~~ who are elected by a majority of the active  
193 police officers who are members of such plan. With respect to  
194 any chapter plan or local law plan that, on January 1, 1997,  
195 allowed retired police officers to vote in such elections,  
196 retirees may continue to vote in such elections. The fifth  
197 member shall be chosen by a majority of the other ~~previous~~ four  
198 members and may not be a member or retiree of the plan whose  
199 funds the board administers. ~~and~~ Such person's name shall be  
200 submitted to the legislative body of the municipality. Upon  
201 receipt of the fifth person's name, the legislative body shall,  
202 as a ministerial duty, appoint such person to the board of  
203 trustees. The fifth member has ~~shall have~~ the same rights as  
204 each of the other four members appointed or elected, shall serve  
205 as trustee for a period of 2 years, and may succeed himself or  
206 herself in office. Each resident member shall serve as trustee  
207 for a period of 2 years, unless sooner replaced by the  
208 legislative body at whose pleasure the member serves, and may  
209 succeed himself or herself as a trustee. Each police officer  
210 member shall serve as trustee for a period of 2 years, unless he  
211 or she sooner leaves the employment of the municipality as a  
212 police officer, whereupon a successor shall be chosen in the  
213 same manner as an original appointment. Each police officer may  
214 succeed himself or herself in office. The terms of office of the  
215 appointed and elected members of the board of trustees may be





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216 amended by municipal ordinance or special act of the Legislature  
217 to extend the terms from 2 years to 4 years. The length of the  
218 terms of office are ~~shall be~~ the same for all board members.

219 (b) The membership of boards of trustees for local law  
220 plans is ~~shall be~~ as follows:

221 1. If a municipality has a pension plan for police officers  
222 only, the provisions of paragraph (a) ~~shall~~ apply.

223 2. If a municipality has a pension plan for police officers  
224 and firefighters, the provisions of paragraph (a) ~~shall~~ apply,  
225 except that one member of the board shall be a police officer ~~as~~  
226 ~~defined in s. 185.02~~ and one member shall be a firefighter as  
227 defined in s. 175.032, respectively, elected by a majority of  
228 the active firefighters and police officers who are members of  
229 the plan.

230 3. Any board of trustees operating a local law plan on July  
231 1, 1999, which is combined with a plan for general employees  
232 shall hold an election of the police officers, or police  
233 officers and firefighters if included, to determine whether a  
234 plan is to be established for police officers only, or for  
235 police officers and firefighters where included. Based on the  
236 election results, a new board shall be established as provided  
237 in subparagraph 1. or subparagraph 2., as appropriate. The  
238 municipality shall enact an ordinance to implement the new board  
239 by October 1, 1999. The newly established board shall take  
240 whatever action is necessary to determine the amount of assets  
241 which is attributable to police officers, or police officers and  
242 firefighters where included. Such assets ~~shall~~ include all  
243 employer, employee, and state contributions made by or on behalf  
244 of police officers, or police officers and firefighters where



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245 included, and any investment income derived from such  
246 contributions. All such moneys shall be transferred into the  
247 newly established retirement plan, as directed by the board.  
248

249 With respect to any board of trustees operating a local law plan  
250 on June 30, 1986, ~~nothing in~~ this paragraph does not shall  
251 permit the reduction of the membership percentage of police  
252 officers or police officers and firefighters. However a  
253 municipality may change the municipal representation on the  
254 board of trustees operating a local law plan by ordinance, as  
255 long as such change does not reduce the membership percentage of  
256 police officers, or police officers and firefighters that  
257 existed on June 30, 1986.

258 (c) Whenever the active police officer membership of a  
259 closed chapter plan or closed local law plan as provided in s.  
260 185.38 falls below 10, an active police officer member seat may  
261 be held by either a retired police officer or an active police  
262 officer member of the plan who is elected by the active and  
263 retired members of the plan. If there are no active or retired  
264 police officers remaining in the plan or capable of serving, the  
265 remaining board members may elect an individual to serve in the  
266 active police officer member seat. Upon receipt of such person's  
267 name, the legislative body of the municipality shall, as a  
268 ministerial duty, appoint such person to the board of trustees.  
269 This paragraph applies only to those plans that are closed to  
270 new members under s. 185.38(2), and does not apply to any other  
271 municipality having a chapter or local law plan.

272 (d) If the chapter plan or local law plan with an active  
273 membership of 10 or more is closed to new members, the member



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274 seats may be held by either a retiree, as defined in s. 185.02,  
275 or an active police officer of the plan who has been elected by  
276 the active police officers. A closed plan means a plan that is  
277 closed to new members but continues to operate, pursuant to s.  
278 185.38(2), for participants who elect to remain in the existing  
279 plan. This paragraph applies only to those plans that are closed  
280 to new members pursuant to s. 185.38(2) and does not apply to  
281 any other municipality that has a chapter plan or a local law  
282 plan.

283 Section 7. Paragraph (b) of subsection (2) of section  
284 185.07, Florida Statutes, is amended to read:

285 185.07 Creation and maintenance of fund.—For any  
286 municipality, chapter plan, local law municipality, or local law  
287 plan under this chapter:

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

289 (b) Police officer member contributions may be increased by  
290 consent of the members' collective bargaining representative or,  
291 if none, by majority consent of police officer members of the  
292 fund ~~to provide greater benefits.~~

293  
294 Nothing in this section shall be construed to require adjustment  
295 of member contribution rates in effect on the date this act  
296 becomes a law, including rates that exceed 5 percent of salary,  
297 provided that such rates are at least one-half of 1 percent of  
298 salary.

299 Section 8. Paragraph (a) of subsection (3) of section  
300 185.35, Florida Statutes, is amended, and subsection (5) is  
301 added to that section, to read:

302 185.35 Municipalities having their own pension plans for



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303 police officers.—For any municipality, chapter plan, local law  
304 municipality, or local law plan under this chapter, in order for  
305 municipalities with their own pension plans for police officers,  
306 or for police officers and firefighters where included, to  
307 participate in the distribution of the tax fund established  
308 pursuant to s. 185.08, local law plans must meet the minimum  
309 benefits and minimum standards set forth in this chapter:

310 (3) Notwithstanding any other provision, with respect to  
311 any supplemental plan municipality:

312 (a) ~~Section 185.02(4)(a) shall not apply,~~ and A local law  
313 plan and a supplemental plan may continue to use their  
314 definition of compensation or salary in existence on the  
315 effective date of this act.

316 (5) DEFINED CONTRIBUTION PLAN.—A municipality may close a  
317 retirement plan subject to this chapter and establish a defined  
318 contribution plan after July 1, 2010, for employees hired after  
319 the date selected by the municipality to establish the plan.  
320 Employees hired before that date may transfer to the defined  
321 contribution plan, but may not transfer back to the defined  
322 benefit retirement plan or belong to both plans simultaneously.  
323 A municipality may close a defined benefit plan subject to this  
324 chapter and join the Florida Retirement System under chapter 121  
325 after July 1, 2010, for employees hired after the date selected  
326 by the municipality. A municipality operating under this  
327 subsection shall receive and use the premium tax provided by  
328 this chapter for the closed plan until the plan is fully funded  
329 as described in s. 185.38(2), as determined by the plan's  
330 actuary.

331 Section 9. Section 215.986, Florida Statutes, is created to



332 read:  
333 215.986 Transparency in government accounting.—Any  
334 governmental entity, as defined in s. 215.985, which offers a  
335 pension or other retirement program to its employees must  
336 include an addendum to the comprehensive annual financial report  
337 which contains all information from the governmental entity's  
338 balance sheet and is in the same format as the balance sheet.  
339 The addendum must also include on the list of assets and  
340 liabilities the actuarial value of assets and the actuarial  
341 accrued liability, as defined in Government Accounting Standards  
342 Board Statements 25, 27, and 45 and as amended in Government  
343 Accounting Standards Board Statement 50. When reporting the  
344 unfunded actuarial accrued liability, the liability must be  
345 presented clearly, meaningfully, and prominently in the Notes to  
346 the Financial Statements.

347 Section 10. This act shall take effect July 1, 2010.  
348  
349

350 ===== T I T L E A M E N D M E N T =====

351 And the title is amended as follows:

352 Delete everything before the enacting clause  
353 and insert:

354 A bill to be entitled  
355 An act relating to public employee retirement;  
356 providing a short title; amending s. 112.65, F.S.;

357 providing that overtime, sick leave, or other forms of  
358 payment may not be included when calculating an  
359 employee's average final compensation for new  
360 employees that are hired after a certain date;



361 amending s. 175.061, F.S.; revising who may be a  
362 member of the board of trustees responsible for  
363 administering a firefighters' pension trust fund;  
364 amending s. 175.091, F.S.; deleting a provision that  
365 allows an increase in firefighter contribution rates  
366 to be used to provide greater benefits; amending s.  
367 175.351, F.S.; conforming a cross-reference; providing  
368 that a municipality or special fire control district  
369 may establish a defined contribution plan for  
370 firefighters; amending s. 185.05, F.S.; revising who  
371 may be a member of the board of trustees responsible  
372 for administering a police officers' pension trust  
373 fund; amending s. 185.07, F.S.; deleting a provisions  
374 which allows an increase in police officer  
375 contribution rates to be used to provide greater  
376 benefits; amending s. 185.35, F.S.; conforming a  
377 cross-reference; providing that a municipality may  
378 establish a defined contribution plan for police  
379 officers; creating s. 215.986, F.S.; requiring a  
380 retirement program for public employees to include an  
381 addendum to its annual financial report which includes  
382 a list of assets and liabilities; providing an  
383 effective date.

384  
385 WHEREAS, it is important for state and local governments to  
386 provide reasonable retirement benefits for their employees who  
387 are their most valuable resource, and

388 WHEREAS, it is necessary for state and local governments to  
389 be in an adequate financial position in order to keep the



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390 retirement promises made and to fund retirement benefits, and

391 WHEREAS, state and local governments must increase the  
392 predictability of, and reduce the expense of, future pension  
393 obligations in order to remain financially solvent, thus  
394 preserving the benefits of current employees who may have  
395 already been promised certain retirement benefits, and

396 WHEREAS, citizens have a right to know, and  
397 governments have an obligation to disclose, the dollar  
398 amount of all retirement-related liabilities owed at  
399 any point in time, NOW, THEREFORE,