

By Senator Ring

32-00962E-11

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1 A bill to be entitled
2 An act relating to public retirement plans; amending
3 s. 112.66, F.S.; providing that a local governmental
4 entity may not offer a defined benefit retirement plan
5 to a plan member hired on or after a certain date;
6 providing that local plans must use at least 5 years
7 to determine a plan member's average final
8 compensation for calculating retirement benefits for
9 members hired on or after a certain date; providing a
10 death benefit for the spouse and minor children of a
11 member hired on or after a certain date who is killed
12 in the line of duty; amending s. 121.051, F.S.;
13 providing that a firefighters' or police officers'
14 plan is eligible for participation in the Florida
15 Retirement System, at the discretion of the Department
16 of Management Services; amending s. 175.032, F.S.;
17 clarifying the definition of "compensation" or
18 "salary"; amending s. 175.351, F.S.; revising
19 provisions relating to benefits paid from the premium
20 tax by a municipality or special fire control district
21 that has its own pension plan; amending s. 185.02,
22 F.S.; revising definitions; amending s. 185.35, F.S.;
23 revising provisions relating to benefits paid by a
24 municipality that has its own pension plan; conforming
25 a cross-reference; directing the Department of
26 Financial Services to rate the financial strength of
27 local government defined benefit plans; specifying the
28 factors for assigning the ratings; requiring certain
29 entities to cooperate in providing data for the

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30 ratings; requiring the ratings to be posted on the
31 department's website; creating the Task Force on
32 Public Employee Disability Presumptions; providing for
33 appointment and membership; specifying the issues for
34 the task force to address; providing for a report to
35 be submitted to the Governor, Chief Financial Officer,
36 and Legislature by a certain date; providing for
37 expiration; directing the Department of Financial
38 Services to submit a report on the financial health of
39 local government pension plans to the Governor and
40 Legislature by a certain date; specifying the issues
41 the report must address; providing a declaration of
42 important state interest; providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Subsections (11), (12), and (13) are added to
47 section 112.66, Florida Statutes, to read:

48 112.66 General provisions.—The following general provisions
49 relating to the operation and administration of any retirement
50 system or plan covered by this part shall be applicable:

51 (11) A plan sponsor may not offer or provide membership in
52 a defined benefit retirement system or plan to an employee hired
53 on or after July 1, 2011. For those members whose terms and
54 conditions of employment are collectively bargained, this
55 subsection is effective for the first agreement negotiated on or
56 after July 1, 2011.

57 (12) For each member hired on or after July 1, 2011, a plan
58 sponsor may not use less than 5 years to determine the average

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59 final compensation used to calculate a member's retirement
60 benefits. For those members whose terms and conditions of
61 employment are collectively bargained, this subsection is
62 effective for the first agreement negotiated on or after July 1,
63 2011.

64 (13) For each member hired on or after July 1, 2011, a plan
65 sponsor shall provide a death benefit entitlement and payments
66 that meet the following minimum standards:

67 (a) The surviving spouse of a member killed in the line of
68 duty may receive a monthly pension equal to one-half of the
69 monthly salary being received by the member at the time of death
70 for the remainder of the surviving spouse's lifetime.

71 (b) If the surviving spouse of a member killed in the line
72 of duty dies, the monthly payments that would have been payable
73 to the surviving spouse had such surviving spouse lived shall be
74 paid for the use and benefit of the member's children under 18
75 years of age and unmarried until the 18th birthday of the
76 member's youngest unmarried child.

77 (c) If a member killed in the line of duty leaves no
78 surviving spouse but is survived by children under 18 years of
79 age, the benefits normally payable to a surviving spouse shall
80 be paid for the use and benefit of the member's child or
81 children under 18 years of age and unmarried until the 18th
82 birthday of the member's youngest unmarried child.

83
84 This subsection does not abrogate other applicable provisions of
85 state or federal law providing death benefits.

86 Section 2. Paragraph (g) is added to subsection (2) of
87 section 121.051, Florida Statutes, to read:

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88 121.051 Participation in the system.—

89 (2) OPTIONAL PARTICIPATION.—

90 (g) A firefighters' pension plan or a municipal police
91 officers' retirement plan, established in accordance with
92 chapter 175 or chapter 185, is eligible for membership under
93 this chapter at the sole discretion of the department. In order
94 to be eligible, the plan must not have any unfunded actuarial
95 liabilities.

96 Section 3. Subsection (3) of section 175.032, Florida
97 Statutes, is amended to read:

98 175.032 Definitions.—For any municipality, special fire
99 control district, chapter plan, local law municipality, local
100 law special fire control district, or local law plan under this
101 chapter, the following words and phrases have the following
102 meanings:

103 (3) "Compensation" or "salary" means the fixed monthly
104 remuneration paid a firefighter. ~~If; where, as in the case of a~~
105 ~~volunteer firefighter,~~ remuneration is based on actual services
106 rendered, as in the case of a volunteer firefighter, the term
107 means the total cash remuneration received yearly for such
108 services, prorated on a monthly basis. Overtime compensation,
109 unused leave, or any other form of compensation beyond base
110 hourly or annual salary may not be included when calculating the
111 member's compensation or salary.

112 (a) A retirement trust fund or plan may use a definition of
113 salary other than the definition in this subsection ~~but only~~ if
114 the monthly retirement income payable to each firefighter
115 covered by the retirement trust fund or plan, as determined
116 under s. 175.162(2) (a) and using such other definition, equals

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117 or exceeds the monthly retirement income that would be payable
118 to each firefighter if his or her monthly retirement income were
119 determined under s. 175.162(2)(a) and using the definition in
120 this subsection.

121 (b) Any retirement trust fund or plan that ~~which now or~~
122 ~~hereafter~~ meets the requirements of this chapter does ~~shall~~ not,
123 solely by virtue of this subsection, reduce or diminish the
124 monthly retirement income otherwise payable to each firefighter
125 covered by the retirement trust fund or plan.

126 (c) The member's compensation or salary contributed as
127 employee-elective salary reductions or deferrals to any salary
128 reduction, deferred compensation, or tax-sheltered annuity
129 program authorized under the Internal Revenue Code shall be
130 deemed to be the compensation or salary the member would receive
131 if he or she were not participating in such program and ~~shall be~~
132 treated as compensation for retirement purposes under this
133 chapter.

134 (d) For any person who first becomes a member in any plan
135 year beginning on or after January 1, 1996, compensation for
136 that any plan year may ~~shall~~ not include any amounts in excess
137 of the Internal Revenue Code s. 401(a)(17) limitation, ~~(as~~
138 ~~amended by the Omnibus Budget Reconciliation Act of 1993),~~ which
139 limitation of \$150,000 shall be adjusted as required by federal
140 law for qualified government plans and shall be further adjusted
141 for changes in the cost of living in the manner provided by
142 Internal Revenue Code s. 401(a)(17)(B). For any person who first
143 became a member before ~~prior to~~ the first plan year beginning on
144 or after January 1, 1996, the limitation on compensation may
145 ~~shall be~~ not be less than the maximum compensation amount that

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146 was allowed to be taken into account under the plan ~~as~~ in effect
147 on July 1, 1993, which limitation shall be adjusted for changes
148 in the cost of living since 1989 in the manner provided by
149 Internal Revenue Code s. 401(a)(17)(1991).

150 Section 4. Subsection (1) of section 175.351, Florida
151 Statutes, is amended to read:

152 175.351 Municipalities and special fire control districts
153 having their own pension plans for firefighters.—For any
154 municipality, special fire control district, local law
155 municipality, local law special fire control district, or local
156 law plan under this chapter, in order for municipalities and
157 special fire control districts with their own pension plans for
158 firefighters, or for firefighters and police officers, where
159 included, to participate in the distribution of the tax fund
160 established pursuant to s. 175.101, local law plans must meet
161 the minimum benefits and minimum standards set forth in this
162 chapter.

163 (1) PREMIUM TAX INCOME.—If a municipality has a pension
164 plan for firefighters, or a pension plan for firefighters and
165 police officers ~~if, where~~ included, which in the opinion of the
166 division meets the minimum benefits and minimum standards set
167 forth in this chapter, the board of trustees of the pension
168 plan, as approved by a majority of firefighters of the
169 municipality, shall use the income from the premium tax to pay
170 down any unfunded actuarial liability in the pension plan. After
171 paying down the unfunded actuarial liability, the board of
172 trustees, as approved by a majority of firefighters of the
173 municipality, may:

174 (a) Place the income from the premium tax in s. 175.101 in

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175 such pension plan for the sole and exclusive use of its
176 firefighters, or for firefighters and police officers if, ~~where~~
177 included, where it shall become an integral part of that pension
178 plan and ~~shall be~~ used to pay extra benefits to the firefighters
179 included in that pension plan; or

180 (b) Place the income from the premium tax in s. 175.101 in
181 a separate supplemental plan to pay extra benefits to
182 firefighters, or to firefighters and police officers if ~~where~~
183 included, participating in such separate supplemental plan.

184

185 The premium tax provided by this chapter shall in all cases be
186 used in its entirety to provide ~~extra~~ benefits to firefighters,
187 or to firefighters and police officers if, ~~where~~ included.
188 However, local law plans in effect on October 1, 1998, must
189 ~~shall be required to~~ comply with the minimum benefit provisions
190 of this chapter only to the extent that additional premium tax
191 revenues become available to incrementally fund the cost of such
192 compliance as provided in s. 175.162(2)(a). If ~~When~~ a plan is in
193 compliance ~~with such minimum benefit provisions~~, as subsequent
194 additional premium tax revenues become available, they must
195 ~~shall~~ be used to provide extra benefits. For the purpose of this
196 chapter, "additional premium tax revenues" means revenues
197 received by a municipality or special fire control district
198 pursuant to s. 175.121 which exceed that amount received for
199 calendar year 1997, and the term "extra benefits" means benefits
200 in addition to or greater than those provided to general
201 employees of the municipality and in addition to those in
202 existence for firefighters on March 12, 1999. Local law plans
203 created by special act before May 23, 1939, shall be deemed to

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204 comply with this chapter.

205 Section 5. Subsections (4), (10), and (15) of section
206 185.02, Florida Statutes, are amended to read:

207 185.02 Definitions.—For any municipality, chapter plan,
208 local law municipality, or local law plan under this chapter,
209 the following words and phrases as used in this chapter shall
210 have the following meanings, unless a different meaning is
211 plainly required by the context:

212 (4) "Compensation" or "salary" means the fixed monthly
213 ~~total cash~~ remuneration ~~including "overtime"~~ paid by the primary
214 employer to a police officer for services rendered, but not
215 including any payments for extra duty or a special detail work
216 performed on behalf of a second party employer, any overtime,
217 unused leave, or any other compensation beyond base hourly or
218 annual salary. ~~However, a local law plan may limit the amount of~~
219 ~~overtime payments which can be used for retirement benefit~~
220 ~~calculation purposes, but in no event shall such overtime limit~~
221 ~~be less than 300 hours per officer per calendar year.~~

222 ~~(a) Any retirement trust fund or plan which now or~~
223 ~~hereafter meets the requirements of this chapter shall not,~~
224 ~~solely by virtue of this subsection, reduce or diminish the~~
225 ~~monthly retirement income otherwise payable to each police~~
226 ~~officer covered by the retirement trust fund or plan.~~

227 ~~(a) (b)~~ The member's compensation or salary contributed as
228 employee-elective salary reductions or deferrals to any salary
229 reduction, deferred compensation, or tax-sheltered annuity
230 program authorized under the Internal Revenue Code shall be
231 deemed to be the compensation or salary the member would receive
232 if he or she were not participating in such program and shall be

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233 treated as compensation for retirement purposes under this
234 chapter.

235 ~~(b)(e)~~ For any person who first becomes a member in any
236 plan year beginning on or after January 1, 1996, compensation
237 for any plan year does ~~shall~~ not include any amounts in excess
238 of the Internal Revenue Code s. 401(a)(17) limitation, ~~as~~
239 ~~amended by the Omnibus Budget Reconciliation Act of 1993~~, which
240 limitation of \$150,000 shall be adjusted as required by federal
241 law for qualified government plans and shall be further adjusted
242 for changes in the cost of living in the manner provided by
243 Internal Revenue Code s. 401(a)(17)(B). For any person who first
244 became a member before ~~prior to~~ the first plan year beginning on
245 or after January 1, 1996, the limitation on compensation may
246 ~~shall be~~ not be less than the maximum compensation amount that
247 was allowed to be taken into account under the plan as in effect
248 on July 1, 1993, which limitation shall be adjusted for changes
249 in the cost of living since 1989 in the manner provided by
250 Internal Revenue Code s. 401(a)(17)(1991).

251 (10) "Local law plan" means a defined benefit pension plan
252 for police officers or for police officers and firefighters if
253 ~~where~~ included, as described in s. 185.35, established by
254 municipal ordinance or special act of the Legislature, which
255 ~~enactment~~ sets forth all plan provisions. Local law plan
256 provisions may vary from the provisions of this chapter,
257 ~~provided that required minimum benefits and minimum standards~~
258 ~~are met~~. Any such variance must ~~shall~~ provide a greater benefit
259 for police officers. Actuarial valuations of local law plans
260 shall be conducted by an enrolled actuary as provided in s.
261 185.221(2)(b).

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262 (15) "Supplemental plan" means a plan to which deposits of
263 the premium tax moneys as provided in s. 185.08 are made to
264 provide ~~extra~~ benefits to police officers, or police officers
265 and firefighters if where included, under this chapter. Such a
266 plan is an element of a local law plan and exists in conjunction
267 with a defined benefit plan ~~that meets the minimum benefits and~~
268 ~~minimum standards of this chapter.~~

269 Section 6. Subsection (1) and paragraph (a) of subsection
270 (3) of section 185.35, Florida Statutes, are amended to read:

271 185.35 Municipalities having their own pension plans for
272 police officers.—For any municipality, chapter plan, local law
273 municipality, or local law plan under this chapter, in order for
274 municipalities with their own pension plans for police officers,
275 or for police officers and firefighters where included, to
276 participate in the distribution of the tax fund established
277 pursuant to s. 185.08, local law plans must meet the minimum
278 benefits and minimum standards set forth in this chapter:

279 (1) PREMIUM TAX INCOME.—If a municipality has a pension
280 plan for police officers, or for police officers and
281 firefighters if where included, which, in the opinion of the
282 division, meets the minimum benefits and minimum standards set
283 forth in this chapter, the board of trustees of the pension
284 plan, as approved by a majority of police officers of the
285 municipality, shall use the income from the premium tax to pay
286 down any unfunded actuarial liability in the pension plan. After
287 paying down the unfunded actuarial liability, the board of
288 trustees, as approved by a majority of police officers of the
289 municipality, may:

290 (a) Place the income from the premium tax in s. 185.08 in

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291 such pension plan for the sole and exclusive use of its police
292 officers, or its police officers and firefighters if ~~where~~
293 included, where it shall become an integral part of that pension
294 plan and shall be used to pay extra benefits to the police
295 officers included in that pension plan; or

296 (b) May place the income from the premium tax in s. 185.08
297 in a separate supplemental plan to pay extra benefits to the
298 police officers, or police officers and firefighters if ~~where~~
299 included, participating in such separate supplemental plan.

300

301 The premium tax provided by this chapter shall in all cases be
302 used in its entirety to provide extra benefits to police
303 officers, or to police officers and firefighters if, ~~where~~
304 included. However, local law plans in effect on October 1, 1998,
305 must ~~shall be required to~~ comply with the minimum benefit
306 provisions of this chapter only to the extent that additional
307 premium tax revenues become available to incrementally fund the
308 cost of such compliance as provided in s. 185.16(2). If ~~When~~ a
309 plan is in compliance ~~with such minimum benefit provisions~~, as
310 subsequent additional tax revenues become available, they shall
311 be used to provide extra benefits. For the purpose of this
312 chapter, "additional premium tax revenues" means revenues
313 received by a municipality pursuant to s. 185.10 which exceed
314 the amount received for calendar year 1997, and the term "extra
315 benefits" means benefits in addition to or greater than those
316 provided to general employees of the municipality and in
317 addition to those in existence for police officers on March 12,
318 1999. Local law plans created by special act before May 23,
319 1939, shall be deemed to comply with this chapter.

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320 (3) Notwithstanding any other provision, with respect to
321 any supplemental plan municipality:

322 (a) Section 185.02(4) does ~~185.02(4)(a) shall~~ not apply,
323 and a local law plan and a supplemental plan may continue to use
324 their definition of compensation or salary in existence on March
325 12, 1999 ~~the effective date of this act.~~

326 Section 7. Financial rating of local pension plans.—The
327 Department of Financial Services shall develop standardized
328 ratings for classifying the financial strength of all local
329 government defined benefit pension plans.

330 (1) In assigning a rating to a plan, the department shall
331 consider, but need not be limited to:

332 (a) The plan's current and future unfunded liabilities.

333 (b) The plan's net asset value, managed returns, and funded
334 ratio.

335 (c) Metrics related to the sustainability of the plan,
336 including, but not limited to, the percentage that the annual
337 contribution is of the participating employee payroll.

338 (d) Municipal bond ratings for the local government, if
339 applicable.

340 (e) Whether the local government has reduced contribution
341 rates to the plan when the plan has an actuarial surplus.

342 (f) Whether the local government uses any actuarial surplus
343 in the plan for obligations outside the plan.

344 (2) The department may obtain all necessary data to
345 formulate the ratings from all relevant entities, including
346 local pension boards, local governments, and the Division of
347 Retirement, all of which shall cooperate with the department in
348 supplying all necessary information.

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349 (3) The ratings shall be posted on the department's website
350 in a standardized format.

351 Section 8. Task Force on Public Employee Disability
352 Presumptions.—

353 (1) The Task Force on Public Employee Disability
354 Presumptions is created for the purpose of developing findings
355 and issuing recommendations on the disability presumptions in
356 ss. 112.18, 185.34, and 175.231, Florida Statutes.

357 (2) All members of the task force shall be appointed on or
358 before July 15, 2011, and the task force shall hold its first
359 meeting on or before August 15, 2011. The task force shall be
360 composed of nine members as follows:

361 (a) Three members appointed by the President of the Senate,
362 one of whom must be an attorney in private practice who has
363 experience in the relevant laws; one of whom must be a
364 representative of organized labor; and one of whom must be from
365 the Florida Association of Counties.

366 (b) Three members appointed by the Speaker of the House of
367 Representatives, one of whom must be an attorney in private
368 practice who has experience in the relevant laws; one of whom
369 must be a representative of organized labor; and one of whom
370 must be from the Florida League of Cities.

371 (c) A member employed by the Office of the Auditor General
372 who has experience in local government auditing and finances.

373 (d) A member employed by the Department of Management
374 Services' Division of Retirement who has experience in local
375 government pension plans, appointed by the Governor.

376 (e) A member employed by the Department of Financial
377 Services who has relevant expertise in state risk management,

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378 appointed by the Chief Financial Officer.

379 (3) The task force shall address issues, including, but not
380 limited to:

381 (a) Data related to the operation of the statutory
382 disability presumptions.

383 (b) How disability presumptions are handled in other
384 states.

385 (c) Proposals for changes to the existing disability
386 presumptions.

387 (4) The Department of Financial Services shall provide
388 administrative support to the task force.

389 (5) Members of the task force shall serve without
390 compensation while in the performance of their duties, but are
391 entitled to reimbursement for per diem and travel expenses in
392 accordance with s. 112.061, Florida Statutes.

393 (6) The task force may obtain data, information, and
394 assistance from any officer or state agency and any political
395 subdivision thereof. All such officers, agencies, and political
396 subdivisions shall provide the task force with all relevant
397 information and assistance on any matter within their knowledge
398 or control.

399 (7) The task force shall submit a report, including
400 findings and recommendations, to the Governor, the Chief
401 Financial Officer, the President of the Senate, and the Speaker
402 of the House of Representatives by January 1, 2012. The report
403 must include specific recommendations for legislative action
404 during the 2012 Regular Session of the Legislature.

405 (8) The task force is dissolved upon submission of its
406 report.

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407 Section 9. By December 1, 2011, the Department of Financial
408 Services shall submit a report and recommendations to the
409 Governor, the President of the Senate, and the Speaker of the
410 House of Representatives on actions to be taken to increase the
411 visibility and transparency of local government pension plans,
412 including, but not limited to, those created pursuant to
413 chapters 175 and 185, Florida Statutes, with the goal of
414 increasing the ability of a taxpayer or policymaker to assess
415 the financial health of the local plans. The report must include
416 specific recommendations for legislative action during the 2012
417 Regular Session of the Legislature. The recommendations must
418 address, but need not be limited to:

419 (1) Whether and what kinds of local pension plan data
420 should be included in the financial audit reports required under
421 s. 218.39, Florida Statutes.

422 (2) Whether the reporting requirements of ss. 175.261 and
423 185.221, Florida Statutes, should be supplemented with other
424 types of financial data in order to give a more complete and
425 transparent picture of a local government's financial solvency.

426 (3) Proposals for a uniform format for providing pension
427 data, including standard terminology and data and the specific
428 types of data which should be provided, including funding
429 ratios, and whether contributions are sufficient to fund
430 actuarial liabilities.

431 (4) Whether to require local governments to provide pension
432 financial data on local public websites.

433 (5) Other related issues, including insurance benefits,
434 health care benefits, and postemployment plan benefits.

435 (6) Proposals related to the composition of local pension

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436 plan boards.

437 Section 10. The Legislature finds that a proper and
438 legitimate state purpose is served when employees and retirees
439 of the state and of its political subdivisions, and the
440 dependents, survivors, and beneficiaries of those employees and
441 retirees, are extended the basic protections afforded by
442 governmental retirement systems that provide fair and adequate
443 benefits and that are managed, administered, and funded in an
444 actuarially sound manner as required by s. 14, Article X of the
445 State Constitution and part VII of chapter 112, Florida
446 Statutes. Therefore, the Legislature determines and declares
447 that this act fulfills an important state interest.

448 Section 11. This act shall take effect July 1, 2011.