

FINAL BILL ANALYSIS

BILL #: CS/HB 231

FINAL HOUSE FLOOR ACTION:
116 Y's 1 N's

SPONSOR: Rep. Young

GOVERNOR'S ACTION: Approved

COMPANION BILLS: SB 752

SUMMARY ANALYSIS

CS/HB 231 passed the House on April 27, 2011, and subsequently passed the Senate on May 2, 2011. The bill was approved by the Governor on June 17, 2011, chapter 2011-240, Laws of Florida, and becomes effective October 1, 2011. This bill amends various provisions of the special act relating to the City of Tampa Firefighters and Police Pension Fund. The bill:

- extends the time period for electing the fund's board of trustees;
- clarifies that the pension board may use the services of more than one nationally-recognized professional investment counselor;
- allows investment in foreign securities of up to 25 percent to conform with general law;
- authorizes a retiree to elect a spousal benefit when the retiree marries after retirement;
- allows members to purchase up to five years of credited service based on full-time certified firefighter or police employment with a city, county, state, federal or other public agency, or military service; and
- creates authority for deferred retirement option plan participants to elect investment of their funds at a low-risk variable rate.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

State Constitution: Governmental Unit Retirement and Pension Systems

Section 14, Art. X of the State Constitution provides that a governmental unit responsible for a retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide an increase in benefits to members or beneficiaries without concurrent provisions for funding the increase on a sound actuarial basis.

Florida Statutes: The Florida Protection of Public Employee Retirement Benefits Act

Part VII of ch. 112, F. S., the “Florida Protection of Public Employee Retirement Benefits Act,” was adopted by the Legislature to implement the provisions of s. 14, Art. X of the State Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. The act is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees, which is funded in whole or in part by public funds.

Section 112.63, F.S., provides that a unit of local government may not agree to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body, and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change upon the local retirement system, consistent with the actuarial review, and furnished a copy of such statement to the Division of Retirement, Department of Management Services. The statement also is required to indicate whether the proposed changes are in compliance with s. 14, Art. X of the State Constitution and with s. 112.64, F.S., which relates to administration of funds and amortization of unfunded liability.

Pursuant to s. 11(a)(21), Art. III of the State Constitution, s. 112.67, F.S., prohibits special laws in conflict with the requirements of the Act.

Firefighter and Police Pensions: Chapters 175 and 185, F.S.

Chapters 175 and 185, F. S., respectively, provide the statutory authority for municipal and special fire control district firefighter pensions, and municipal police pensions. These acts were established by the Legislature to provide a “uniform retirement system” providing defined benefit plans for firefighters and police officers, and setting standards for operation and funding of these systems. Retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the retirement trust funds.

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive—access to premium tax revenues—to encourage the establishment of firefighter retirement plans by Florida cities. Fourteen years later, in 1953, the Legislature enacted ch. 185, F.S., which created a similar funding mechanism for municipal police officers. Special fire control districts became eligible to participate under ch. 175 in 1993.

Funding for these pension plans comes from four sources: net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the “premium tax”), employee

contributions, other revenue sources, and mandatory payments by the city of any extra amount needed to keep the plan solvent. To qualify for premium tax dollars, plans must meet requirements found in chs. 175 and 185, F.S. Responsibility for overseeing and monitoring these plans is assigned to the Division of Retirement in the Department of Management Services, but day-to-day operational control rests with local boards of trustees. Most Florida firefighters and municipal law enforcement officers participate in these plans.

City of Tampa Firefighters and Police Pension Fund

The Firefighters and Police Pension Fund for the City of Tampa originally was created through a special act in 1933 (ch. 16721, L.O.F.). This act was substantially rewritten by Ordinance No 4746-A, enacted September 30, 1969, which was approved, ratified, validated and confirmed by ch. 74-613, L.O.F. Subsequently, the act has been amended by the following laws:

- Chapter 92-231, L.O.F.
- Chapter 94-463, L.O.F.
- Chapter 98-515, L.O.F.
- Chapter 2000-485, L.O.F.
- Ordinance Number 2001-133, enacted July 3, 2001 (authorized by ch. 200-485, L.O.F.).
- Chapter 2001-288, L.O.F.
- Chapter 2002-369, L.O.F.
- Ordinance Number 2003-22, enacted January 28, 2003 (authorized by ch. 2000-485, L.O.F.).
- Chapter 2004-427, L.O.F.
- Chapter 2007-304, L.O.F.

The provisions of these laws are incorporated into a pension contract and appropriate supplemental pension contracts, which are signed by each individual plan member.

The contract provides for pension plan administration, funding, membership and benefits. The general administration and responsibility for the proper operation of the pension system is vested in a board of trustees consisting of nine persons: three members of the city administration appointed by the mayor, three members of the fire department elected by active and retired firefighters, and three members of the police department elected by active and retired police officers. Currently, an election is required to be held each year not less than 10 days and not more than 30 days prior to the commencement of the terms of office for the trustees. The plan allows the board to retain the service of a nationally recognized professional investment counselor, and invest up to 10 percent of the plan's total book value in foreign securities. There is no option for a retiree who remarries after his/her retirement date to prospectively receive a voluntarily reduced retirement benefit so that his or her widow/widower will be eligible for a death benefit, and there are no provisions that allow a member to purchase up to five additional years of service for prior military, police or fire service while employed by another city, county, state, federal, or other public agency. Deferred retirement option program (DROP)¹ participants earn interest on their deferred monthly benefits based on the fund's net investment performance.

¹ "DROP" refers to a deferred retirement option program in which an employee may elect to defer receipt of retirement benefits while continuing employment with his or her employer while the deferred monthly benefits accrue on behalf of the participant, plus interest compounded monthly, for a specified period of time.

Effect of the Bill

HB 231 amends various provisions contained in the uncodified special acts relating to the City of Tampa Firefighters and Police Officers Pension Fund. The bill:

- modifies the description of the fund's board of trustee election procedure to use the term "election" instead of referring to the vote taking place at a "meeting." This change is simply technical.
- extends the time for holding elections for board members for an additional 30 days. This expanded period is intended to enhance the election process.
- clarifies that the pension board may use the services of more than one nationally recognized professional investment counselor.
- allows investment in foreign securities of up to 25 percent of the plan's value, instead of the present 10 percent, in order to comply with current general law. It also contains language which duplicates s. 175.071(1) and s. 185.06(1), F.S, stating that the investment cap on securities may not be revised except as provided by general law.
- creates authority for certain retirees to elect a spousal benefit when the retiree does not marry or remarry until after retirement. These members must: (1) be retired less than 40 years from the effective date of this act; and (2) have retired or entered DROP prior to October 1, 2002. The member may prospectively elect to receive a reduced retirement benefit payable to a widow or widower. This benefit will not result in any additional cost to the fund or to the plan sponsor, and the actuarial calculation of the benefit is paid for by the retired member. The election only is available if the spouse is not more than 20 years younger than the member and the marriage occurs at least three years² prior to the election. A member may exercise this privilege for a maximum of two marriages after retirement.
- allows members to purchase up to five years of credited service based on full-time certified firefighter or police employment by a city county, state, federal or other public agency, or military service in the U.S. Armed Forces. Participating employees are required to fund all costs associated with this "buy-back" so it will have no impact on the actuarial integrity of the pension plan: prior service is not granted until the member pays the actuarial cost of the service to the fund, and the member also pays for the calculation of the actuarial cost. Service may not be purchased if the member receives a retirement benefit based on the previous service, except in the case of a military pension. Members can make payments associated with the "buy-back" in one lump sum or in installments by payroll deduction. A member who terminates prior to vesting in the plan is entitled to a refund of all moneys paid in, but receives no interest on these funds.
- creates authority for DROP participants to annually elect investment of their DROP funds in a low-risk, variable rate option selected by the board of trustees instead of a rate that reflects the fund's net investment performance. This option will allow DROP participants flexibility in their investment opportunities and the ability to reduce their exposure to market volatility. Those

² The fund's actuary recommended this three-year limitation in order to prevent marriages of convenience or deathbed marriages solely for the purpose of continuing retirement benefits.

employees making this choice would have their DROP funds placed in a specified money market account.

These proposed changes to the pension plan have been approved by the International Association of Firefighters Local 754 and the Tampa Police Benevolent Association union membership, and ratified by the Tampa City Council. Current active members of the plan may elect to sign a supplemental pension contract which contains these changes. New members will be required to sign a pension contract which includes these provisions.

The bill provides an effective date of October 1, 2011.

The Actuarial Statement of Fiscal Soundness provided by the Department of Management Services, Division of Retirement,³ states:

- This bill complies with the requirements of s. 14, Art. X of the State Constitution.
- This bill satisfies the actuarial cost impact provisions of part VII of ch. 112, F.S.
- The bill has no fiscal impact; there are no changes/additions to existing benefit provisions.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 14, 2010.

WHERE? *The Tampa Tribune*, a daily newspaper of general circulation published in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

³ Statement prepared by Joseph Edmonds, Enrolled Actuary, 08-3518, dated January 24, 2011.