

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 1301

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Abruzzo

117 Y's 0 N's

COMPANION N/A
BILLS:

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

House Bill 1301 passed the House on February 29, 2012, and subsequently passed the Senate on March 5, 2012.

The bill amends the West Palm Beach Police Pension Fund's special act to:

- reduce the number of overtime hours included in pensionable compensation from 400 to 300 effective January 1, 2013;
- reduce the benefit accrual factor for members from three to 2.68 percent for all years of service earned after October 1, 2011;
- reduce the assumed rate of investment return from 8.25 to eight percent;
- increase the member contribution rate from 11 to 18 percent effective October 1, 2011, and then return the contribution rate to 11 percent on October 1, 2013, using state premium tax dollars received in 2011 and 2012 to fund this benefit; and
- provide that qualified plan rollovers are no longer eligible for a fixed interest rate effective October 1, 2012, and will earn the same investment return as the fund.

These changes are necessary to comply with general law and to provide for the stability of the fund, and reflect a collective bargaining agreement between the City of West Palm Beach and the Palm Beach County Police Benevolent Association.

According to the Economic Impact Statement, the bill reduces annual costs to the City of West Palm Beach for the pension fund by \$1,493,480 in Fiscal Years 2012-2013 and 2013-2014.

The bill was approved by the Governor on May 4, 2012, ch. 2012-259, Laws of Florida. The bill is effective upon becoming a law.

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.

Florida law 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.¹ 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, F.S., in 1993.

¹ See, s. 112.63, F.S.

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.

The West Palm Beach Police Pension Fund

The West Palm Beach Police Pension Fund was created by the Florida Legislature in 1947.² Each police officer employed by the City of West Palm Beach Police Department is a pension fund participant. As of September 30, 2010, the pension fund had 255 active members, 100 deferred retirement option program participants,³ and 195 retirees and beneficiaries. The fund has assets in excess of \$182,809,000.⁴

Currently, the plan provides the following benefits:

- up to 400 hours of overtime are included in pensionable compensation;
- the benefit accrual factor is three percent for all years of service earned after April 1, 1987;
- the assumed rate of investment return is 8.25 percent;
- members have the option of selecting investment earnings earned by the plan, or a fixed 8.25 percent interest rate on his or her supplemental share plan member account;
- members have the option of selecting investment earnings earned by the plan, or a fixed 8.25 percent interest rate on his or her deferred retirement option program member account; and
- police officers’ contributions consist of 11 percent of their salary.

Effect of Changes

HB 1301 amends ch. 24981 (1947), L.O.F., as amended by ch. 2010-245, L.O.F., relating to the West Palm Beach Police Pension Fund in order to comply with new general law requirements and actuarial assumptions as follows:

- The definition of “salary” is changed to include up to 300 hours of overtime, and exclude any overtime in excess of 300 hours for pension purposes for service earned after January 1, 2013. This lowers the amount of overtime contained in pensionable compensation from 400 hours. This reduction was necessary to comply with ch. 2011-216, L.O.F., which excluded overtime hours in excess of 300 hours from pensionable earnings beginning on July 1, 2011.⁵
- The benefit accrual factor for members is reduced from three to 2.68 percent for all years of service earned after October 1, 2011. This change was necessitated by a reduction in the assumed interest rate for the fund.⁶
- The assumed rate of investment return is reduced from 8.25 to eight percent. If, in any fiscal year, the amount paid in investment earnings creates a deficiency as compared to the gross earnings of the pension fund as a whole, the rate is reduced to four percent effective the following October 1 until the deficiency is satisfied.
- The member contribution rate is increased from 11 to 18 percent effective October 1, 2011, and then returned to 11 percent on October 1, 2013, using the state premium tax dollars received in

² See, ch. 24981 (1947), L.O.F., as amended by ch. 2010-245, L.O.F.

³ A deferred retirement option program allows an employee to elect to defer receipt of retirement benefits while continuing employment with his or her employer while the deferred monthly benefits accrue, plus interest, for a specified period of time.

⁴ <http://wpbppf.com/>, last visited on January 20, 2012.

⁵ See, s. 185.02(4), F.S.

⁶ See, September 27, 2011, memo from the Board of Trustees to the members of the West Palm Beach Police Pension Fund, available at <http://wpbppf.com/>.

2011 and 2012 to fund this “extra benefit.” Pursuant to s. 185.35, F.S., premium tax dollars are used to pay for “extra benefits,” i.e., benefits in addition to or greater than those provided to general employees of the municipality and in addition to those in existence for police officers on March 12, 1999.⁷ This procedure (as well as the other reductions in benefits) is designed to allow the City of West Palm Beach the full use of the state premium tax moneys for 2011 and 2012 to help reduce the city’s contribution requirements and improve the stability of the plan.⁸ State premium tax moneys received in 2013 will revert back to the supplemental share plan⁹ for the benefit of the police officers.

- Effective October 1, 2012, qualified plan rollovers¹⁰ are no longer eligible for a fixed interest rate and will earn the same investment return as the fund.
- Beginning October 1, 2012, members are no longer required to convert from a disability benefit to a normal retirement benefit at age 55.

According to the legal counsel for the fund Board of Trustees, these amendments are necessary because the Board has changed certain assumptions, based upon the advice of their actuary. Additionally, the City of West Palm Beach and the Palm Beach County Police Benevolent Association have agreed in collective bargaining to these benefit and funding changes.¹¹

The Actuarial Statement of Fiscal Soundness provided by the Department of Management Services, Division of Retirement,¹² provides that the bill:

- complies with the requirements of s. 14, Art. X, of the State Constitution; and
- satisfies the actuarial cost impact provisions of chapter 112, part VII of ch. 112, F.S., pending review of the actuarial impact statement from the Plan actuary.

The statement also notes that the police officers’ contribution rate is increased from 11 percent to 18 percent. It is then decreased back to 11 percent using the state premium tax money to pay for the “improvement.” The decrease in the benefit accrual rate, lowering of the discount rate and the other changes result in a reduction in the City of West Palm Beach contribution rate due to the increased use of state premium tax funds. The frozen amount of the state premium tax money to the defined benefit plan is increased for two years as a result of the changes. Any reduction in state premium tax money to less than the frozen amount during this period will be the responsibility of the City of West Palm Beach. Beginning in 2013, all state premium tax moneys will revert back to the supplemental share plan and the remaining cost of the changes will be the responsibility of the City of West Palm Beach.

The bill is effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

⁷ Section 185.35(2)(b), F.S.

⁸ See, Substantive Bill Analysis for HB 1301, Department of Management Services, January 11, 2012 (on file with the Government Operations Subcommittee).

⁹ Pursuant to s. 185.02(15), F.S., a “supplemental plan” means a plan to which deposits of the premium tax moneys are made to provide extra benefits for police officers.

¹⁰ Qualified plan rollovers are assets that a member can bring into the fund during their work life. For example, a member coming from another job to work with the City of West Palm Beach could transfer earnings from their prior pension plan. This change will insure that the pension fund is not required to subsidize losses for these assets when the pension fund earns less than the fixed rate.

¹¹ October 11, 2011, correspondence from Bonni Jensen, legal counsel for the Board of Trustees of the West Palm Beach Police Pension Fund, to the Palm Beach County Legislative Delegation.

¹² Statement prepared by Joseph Edmonds, Enrolled Actuary, 11-3518, dated January 11, 2012.

IF YES, WHEN? December 1, 2011

WHERE? *The Palm Beach Post*, a newspaper of general circulation published in Palm Beach County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

According to the Economic Impact Statement, the bill reduces costs to the City of West Palm Beach for the pension plan by \$1,493,480 for Fiscal Years 2012-2013 and 2013-2014.