

By the Committees on Governmental Oversight and Accountability;  
and Governmental Oversight and Accountability

585-02802-12

20122088c1

1 A bill to be entitled

2 An act relating to public retirement plans; amending  
3 s. 175.351, F.S.; revising provisions relating to  
4 benefits paid from the premium tax by a municipality  
5 or special fire control district that has its own  
6 pension plan; providing for retroactive application;  
7 amending s. 185.02, F.S.; revising the definition of  
8 the term "compensation" or "salary" for purposes of  
9 police officers' pensions; amending s. 185.35, F.S.;  
10 revising provisions relating to benefits paid by a  
11 municipality that has its own pension plan; providing  
12 for retroactive application; providing a declaration  
13 of important state interest; providing an effective  
14 date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Subsection (6) is added to section 175.351,  
19 Florida Statutes, to read:

20 175.351 Municipalities and special fire control districts  
21 having their own pension plans for firefighters.—For any  
22 municipality, special fire control district, local law  
23 municipality, local law special fire control district, or local  
24 law plan under this chapter, in order for municipalities and  
25 special fire control districts with their own pension plans for  
26 firefighters, or for firefighters and police officers if  
27 included, to participate in the distribution of the tax fund  
28 established pursuant to s. 175.101, local law plans must meet  
29 the minimum benefits and minimum standards set forth in this

585-02802-12

20122088c1

30 chapter.

31 (6) Notwithstanding any other provision, with respect to  
32 any plan established under this chapter, if the municipality or  
33 special fire control district and the plan members' collective  
34 bargaining representative or, if none, a majority of the plan  
35 members, mutually consent to the retirement benefits provided in  
36 the plan or to the use of income from the premium tax provided  
37 pursuant to this chapter, the provisions of the agreement shall  
38 be deemed to comply with this chapter for retirement purposes.  
39 This subsection is retroactive in application to any agreement  
40 entered into or effective on or after October 1, 2010.

41 Section 2. Subsection (4) of section 185.02, Florida  
42 Statutes, is amended to read:

43 185.02 Definitions.—For any municipality, chapter plan,  
44 local law municipality, or local law plan under this chapter,  
45 the following words and phrases as used in this chapter shall  
46 have the following meanings, unless a different meaning is  
47 plainly required by the context:

48 (4) "Compensation" or "salary" means, for noncollectively  
49 bargained service earned before July 1, 2011, or for service  
50 earned under collective bargaining agreements in place before  
51 July 1, 2011, the total cash remuneration including "overtime"  
52 paid by the primary employer to a police officer for services  
53 rendered, but not including any payments for extra duty or  
54 special detail work performed on behalf of a second party  
55 employer. A local law plan may limit the amount of overtime  
56 payments which can be used for retirement benefit calculation  
57 purposes; however, such overtime limit may not be less than 300  
58 hours per officer per calendar year unless a smaller number of

585-02802-12

20122088c1

59 hours is mutually agreed to by the collective bargaining  
60 representative and municipality. For noncollectively bargained  
61 service earned on or after July 1, 2011, or for service earned  
62 under collective bargaining agreements entered into on or after  
63 July 1, 2011, the term has the same meaning except that when  
64 calculating retirement benefits, up to 300 hours per year in  
65 overtime compensation may be included unless a smaller number of  
66 hours is mutually agreed to by a majority of the plan members  
67 and the municipality as specified in the plan or collective  
68 bargaining agreement, but payments for accrued unused sick or  
69 annual leave may not be included.

70 (a) Any retirement trust fund or plan that meets the  
71 requirements of this chapter does not, solely by virtue of this  
72 subsection, reduce or diminish the monthly retirement income  
73 otherwise payable to each police officer covered by the  
74 retirement trust fund or plan.

75 (b) The member's compensation or salary contributed as  
76 employee-elective salary reductions or deferrals to any salary  
77 reduction, deferred compensation, or tax-sheltered annuity  
78 program authorized under the Internal Revenue Code shall be  
79 deemed to be the compensation or salary the member would receive  
80 if he or she were not participating in such program and shall be  
81 treated as compensation for retirement purposes under this  
82 chapter.

83 (c) For any person who first becomes a member in any plan  
84 year beginning on or after January 1, 1996, compensation for  
85 that plan year may not include any amounts in excess of the  
86 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
87 the Omnibus Budget Reconciliation Act of 1993, which limitation

585-02802-12

20122088c1

88 of \$150,000 shall be adjusted as required by federal law for  
89 qualified government plans and shall be further adjusted for  
90 changes in the cost of living in the manner provided by Internal  
91 Revenue Code s. 401(a)(17)(B). For any person who first became a  
92 member before the first plan year beginning on or after January  
93 1, 1996, the limitation on compensation may not be less than the  
94 maximum compensation amount that was allowed to be taken into  
95 account under the plan ~~as~~ in effect on July 1, 1993, which  
96 limitation shall be adjusted for changes in the cost of living  
97 since 1989 in the manner provided by Internal Revenue Code s.  
98 401(a)(17)(1991).

99 Section 3. Subsection (6) is added to section 185.35,  
100 Florida Statutes, to read:

101 185.35 Municipalities having their own pension plans for  
102 police officers.—For any municipality, chapter plan, local law  
103 municipality, or local law plan under this chapter, in order for  
104 municipalities with their own pension plans for police officers,  
105 or for police officers and firefighters if included, to  
106 participate in the distribution of the tax fund established  
107 pursuant to s. 185.08, local law plans must meet the minimum  
108 benefits and minimum standards set forth in this chapter:

109 (6) Notwithstanding any other provision, with respect to  
110 any plan established under this chapter, if the municipality and  
111 the plan members' collective bargaining representative or, if  
112 none, a majority of the plan members, mutually consent to the  
113 retirement benefits provided in the plan or to the use of income  
114 from the premium tax provided pursuant to this chapter, the  
115 provisions of the agreement shall be deemed to comply with this  
116 chapter for retirement purposes. This subsection is retroactive

585-02802-12

20122088c1

117 in application to any agreement entered into or effective on or  
118 after October 1, 2010.

119 Section 4. The Legislature finds that a proper and  
120 legitimate state purpose is served when employees and retirees  
121 of the state and its political subdivisions, and the dependents,  
122 survivors, and beneficiaries of such employees and retirees, are  
123 extended the basic protections afforded by governmental  
124 retirement systems that provide fair and adequate benefits and  
125 that are managed, administered, and funded in an actuarially  
126 sound manner as required by s. 14, Article X of the State  
127 Constitution and part VII of chapter 112, Florida Statutes.  
128 Therefore, the Legislature determines and declares that this act  
129 fulfills an important state interest.

130 Section 5. This act shall take effect July 1, 2012.