

By Senator Hays

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1 A bill to be entitled
2 An act relating to public employees; amending s.
3 112.18, F.S.; revising conditions under which certain
4 firefighters, law enforcement officers, correctional
5 officers, or correctional probations officers who
6 suffer or have died from any of specified medical
7 conditions are presumed to have been injured or killed
8 accidentally and in the line of duty; revising the
9 conditions under which the presumption with respect to
10 disability due to any of specified diseases is against
11 occurrence in the line of duty for purposes of
12 workers' compensation claims; changing an evidentiary
13 standard; amending s. 175.061, F.S.; providing duties
14 of the board of trustees relating to the reporting of
15 expenses and the operation under an administrative
16 expense budget; amending s. 175.071, F.S.; revising
17 requirements of the board relating to the employment
18 of legal counsel, actuaries, and other advisers;
19 amending s. 175.231, F.S.; providing medical
20 conditions or behaviors that are appropriate for
21 consideration in denying or overcoming the presumption
22 of accidental disabilities or death suffered in the
23 line of duty for firefighters; changing an evidentiary
24 standard; amending s. 175.351, F.S.; revising
25 provisions relating to benefits paid from the premium
26 tax by a municipality or special fire control district
27 that has its own pension plan; providing definitions;
28 providing a process for determining the allocation of
29 the premium tax revenues to a supplemental plan;

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30 amending s. 175.361, F.S.; providing certain powers
31 and responsibilities to municipalities and special
32 fire control districts relating to termination of
33 plans and distribution of funds; amending s. 185.02,
34 F.S.; revising the definition of the term
35 "compensation" or "salary" for purposes of police
36 officers' pensions; amending s. 185.05, F.S.;
37 authorizing a municipality to change the municipal
38 representation of the board of trustees pursuant to
39 certain requirements; providing duties of the board of
40 trustees relating to the reporting of expenses and the
41 operation under an administrative expense budget;
42 amending s. 185.06, F.S.; revising requirements of the
43 board relating to the employment of legal counsel,
44 actuaries, and other advisers; amending s. 185.34,
45 F.S.; providing medical conditions or behaviors that
46 are appropriate for consideration in denying or
47 overcoming the presumption of accidental disabilities
48 or death suffered in the line of duty for police
49 officers; changing an evidentiary standard; amending
50 s. 185.35, F.S.; revising provisions relating to
51 benefits paid by a municipality that has its own
52 pension plan; providing definitions; providing a
53 process for determining the allocation of the premium
54 tax revenues to a supplemental plan; amending s.
55 185.37, F.S.; providing certain powers and
56 responsibilities to municipalities relating to
57 termination of plans and distribution of funds;
58 providing a declaration of important state interest;

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59 providing an effective date.

60
61 Be It Enacted by the Legislature of the State of Florida:

62
63 Section 1. Section 112.18, Florida Statutes, is amended to
64 read:

65 112.18 Firefighters and law enforcement or correctional
66 officers; special provisions relative to disability.-

67 (1) (a) Any condition or impairment of health of any Florida
68 state, municipal, county, port authority, special tax district,
69 or fire control district firefighter or any law enforcement
70 officer, correctional officer, or correctional probation officer
71 as defined in s. 943.10(1), (2), or (3), who has been employed
72 by the current employer for at least 5 years and who is less
73 than 37 years of age, caused by tuberculosis, heart disease, or
74 hypertension resulting in total or partial disability or death
75 shall be presumed to have been accidental and to have been
76 suffered in the line of duty unless the contrary be shown by a
77 preponderance of the ~~competent~~ evidence. However, any such
78 firefighter, correctional officer, correctional probation
79 officer, or law enforcement officer must have successfully
80 passed a physical examination upon entering into any such
81 service as a firefighter, correctional officer, correctional
82 probation officer, or law enforcement officer, which examination
83 failed to reveal any evidence of any such condition. Risk
84 factors and epidemiological data relating to nonwork-related
85 conditions unique to an individual, such as blood cholesterol,
86 body mass index, history of tobacco and alcohol use, and other
87 medical conditions or behaviors that are associated with the

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88 disease or condition subject to the presumption, are appropriate
89 for consideration in denying or overcoming the presumption. Such
90 presumption does not apply to benefits payable under or granted
91 in a policy of life insurance or disability insurance, unless
92 the insurer and insured have negotiated for such additional
93 benefits to be included in the policy contract.

94 (b)1. For any workers' compensation claim filed under this
95 section and chapter 440 occurring on or after July 1, 2010, a
96 firefighter, law enforcement officer, correctional officer, or
97 correctional probation officer as defined in s. 943.10(1), (2),
98 or (3) suffering from tuberculosis, heart disease, or
99 hypertension is presumed not to have incurred such disease in
100 the line of duty as provided in this section if the firefighter,
101 law enforcement officer, correctional officer, or correctional
102 probation officer:

103 a. Departed in a material fashion from the prescribed
104 course of treatment of his or her personal physician and the
105 departure is demonstrated to have resulted in a significant
106 aggravation of the tuberculosis, heart disease, or hypertension
107 resulting in disability or increasing the disability or need for
108 medical treatment; or

109 b. Was previously compensated pursuant to this section and
110 chapter 440 for tuberculosis, heart disease, or hypertension and
111 thereafter sustains and reports a new compensable workers'
112 compensation claim under this section and chapter 440, and the
113 firefighter, law enforcement officer, correctional officer, or
114 correctional probation officer has departed in a material
115 fashion from the prescribed course of treatment of an authorized
116 physician for the preexisting workers' compensation claim and

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117 the departure is demonstrated to have resulted in a significant
118 aggravation of the tuberculosis, heart disease, or hypertension
119 resulting in disability or increasing the disability or need for
120 medical treatment.

121 2. As used in this paragraph, "prescribed course of
122 treatment" means prescribed medical courses of action and
123 prescribed medicines for the specific disease or diseases
124 claimed and as documented in the prescribing physician's medical
125 records.

126 3. If there is a dispute as to the appropriateness of the
127 course of treatment prescribed by a physician under sub-
128 subparagraph 1.a. or sub-subparagraph 1.b. or whether a
129 departure in a material fashion from the prescribed course of
130 treatment is demonstrated to have resulted in a significant
131 aggravation of the tuberculosis, heart disease, or hypertension
132 resulting in disability or increasing the disability or need for
133 medical treatment, the firefighter, law enforcement officer,
134 correctional officer, or correctional probation officer is
135 entitled to seek an independent medical examination pursuant to
136 s. 440.13(5).

137 4. A firefighter, law enforcement officer, correctional
138 officer, or correctional probation officer is not entitled to
139 the presumption provided in this section unless a claim for
140 benefits is made prior to or within 180 days after leaving the
141 employment of the employing agency.

142 (2) This section authorizes each governmental entity
143 specified in subsection (1) to negotiate policy contracts for
144 life and disability insurance to include accidental death
145 benefits or double indemnity coverage which shall include the

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146 presumption that any condition or impairment of health of any
147 firefighter, law enforcement officer, or correctional officer
148 caused by tuberculosis, heart disease, or hypertension resulting
149 in total or partial disability or death was accidental and
150 suffered in the line of duty, unless the contrary be shown by a
151 preponderance of the ~~competent~~ evidence.

152 Section 2. Subsection (8) is added to section 175.061,
153 Florida Statutes, to read:

154 175.061 Board of trustees; members; terms of office;
155 meetings; legal entity; costs; attorney's fees.—For any
156 municipality, special fire control district, chapter plan, local
157 law municipality, local law special fire control district, or
158 local law plan under this chapter:

159 (8) The board of trustees shall:

160 (a) Provide a detailed accounting report of its expenses
161 for each fiscal year to the plan sponsor and the Department of
162 Management Services and make the report available to every
163 member of the plan. The report must include, but need not be
164 limited to, all administrative expenses that, for purposes of
165 this subsection, are expenses relating to any legal counsel,
166 actuary, plan administrator, and all other consultants, and all
167 travel and other expenses paid to or on behalf of the members of
168 the board of trustees or anyone else on behalf of the plan.

169 (b) Operate under an administrative expense budget for each
170 fiscal year, provide a copy of the budget to the plan sponsor,
171 and make available a copy of the budget to plan members before
172 the beginning of the fiscal year. The administrative expense
173 budget must regulate the administrative expenses of the board of
174 trustees. If the board of trustees amends the administrative

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175 expense budget, the board must provide a copy of the amended
176 budget to the plan sponsor and make available a copy of the
177 amended budget to plan members before the amendment takes
178 effect.

179 Section 3. Subsection (7) of section 175.071, Florida
180 Statutes, is amended to read:

181 175.071 General powers and duties of board of trustees.—For
182 any municipality, special fire control district, chapter plan,
183 local law municipality, local law special fire control district,
184 or local law plan under this chapter:

185 (7) To assist the board in meeting its responsibilities
186 under this chapter, the board, if it so elects, and subject to
187 s. 175.061(8), may:

188 (a) Employ independent legal counsel at the pension fund's
189 expense.

190 (b) Employ an independent actuary, as defined in s.
191 175.032(7), at the pension fund's expense.

192 (c) Employ such independent professional, technical, or
193 other advisers as it deems necessary at the pension fund's
194 expense.

195
196 If the board chooses to use the municipality's or special
197 district's legal counsel or actuary, or chooses to use any of
198 the municipality's or special district's ~~other~~ professional,
199 technical, or other advisers, it must do so only under terms and
200 conditions acceptable to the board.

201 Section 4. Section 175.231, Florida Statutes, is amended to
202 read:

203 175.231 Diseases of firefighters suffered in line of duty;

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204 presumption.—For any municipality, special fire control
205 district, chapter plan, local law municipality, local law
206 special fire control district, or local law plan under this
207 chapter, any condition or impairment of health of a firefighter,
208 who has been employed by the current employer for at least 5
209 years and who is less than 37 years of age, caused by
210 tuberculosis, hypertension, or heart disease resulting in total
211 or partial disability or death shall be presumed to have been
212 accidental and suffered in the line of duty unless the contrary
213 is shown by a preponderance of the competent evidence, provided
214 that such firefighter shall have successfully passed a physical
215 examination before entering into such service, which examination
216 failed to reveal any evidence of such condition. Risk factors
217 and epidemiological data relating to nonwork-related conditions
218 unique to an individual, such as blood cholesterol, body mass
219 index, history of tobacco and alcohol use, and other medical
220 conditions or behaviors that are associated with the disease or
221 condition subject to the presumption, are appropriate for
222 consideration in denying or overcoming the presumption. This
223 section shall be applicable to all firefighters only with
224 reference to pension and retirement benefits under this chapter.

225 Section 5. Section 175.351, Florida Statutes, is amended to
226 read:

227 175.351 Municipalities and special fire control districts
228 having their own pension plans for firefighters.—For any
229 municipality, special fire control district, local law
230 municipality, local law special fire control district, or local
231 law plan under this chapter, in order for municipalities and
232 special fire control districts with their own pension plans for

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233 firefighters, or for firefighters and police officers if
234 included, to participate in the distribution of the tax fund
235 established pursuant to s. 175.101, local law plans must meet
236 the minimum benefits and minimum standards set forth in this
237 chapter.

238 (1) Notwithstanding any other provision, retirement
239 benefits provided pursuant to this chapter and the use of the
240 income from the premium tax in s. 175.101 must be determined and
241 implemented in accordance with the collective bargaining
242 process, and where collective bargaining is not applicable, in
243 accordance with the pension plan, except as provided in
244 subsection (2). If the term of a collective bargaining agreement
245 ends without a new collective bargaining agreement in effect,
246 the retirement benefits of a plan operating pursuant to this
247 chapter shall revert to the minimum benefit provisions of this
248 chapter for the period of time from the end of the collective
249 bargaining agreement until the effective date of the subsequent
250 collective bargaining agreement, and the income from the premium
251 tax may be used for any retirement benefit provided pursuant to
252 this chapter as determined unilaterally by the municipality or
253 special fire control district. ~~If a municipality has a pension~~
254 ~~plan for firefighters, or a pension plan for firefighters and~~
255 ~~police officers if included, which in the opinion of the~~
256 ~~division meets the minimum benefits and minimum standards set~~
257 ~~forth in this chapter, the board of trustees of the pension~~
258 ~~plan, as approved by a majority of firefighters of the~~
259 ~~municipality, may:~~

260 (a) ~~Place the income from the premium tax in s. 175.101 in~~
261 ~~such pension plan for the sole and exclusive use of its~~

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262 ~~firefighters, or for firefighters and police officers if~~
263 ~~included, where it shall become an integral part of that pension~~
264 ~~plan and shall be used to pay extra benefits to the firefighters~~
265 ~~included in that pension plan; or~~

266 ~~(b) Place the income from the premium tax in s. 175.101 in~~
267 ~~a separate supplemental plan to pay extra benefits to~~
268 ~~firefighters, or to firefighters and police officers if~~
269 ~~included, participating in such separate supplemental plan.~~

270 ~~(2) The premium tax provided by this chapter shall in all~~
271 ~~eases be used in its entirety to provide extra benefits to~~
272 ~~firefighters, or to firefighters and police officers if~~
273 ~~included. For However, local law plans in effect on October 1,~~
274 ~~1998, which do not must comply with the minimum benefit~~
275 ~~provisions of this chapter, as only to the extent that~~
276 ~~additional premium tax revenues become available, such revenues~~
277 ~~shall be used to incrementally fund the cost of such compliance~~
278 ~~as provided in s. 175.162(2) (a). ~~If a plan is in compliance with~~~~
279 ~~such minimum benefit provisions, as subsequent additional~~
280 ~~premium tax revenues become available, they must be used to~~
281 ~~provide extra benefits. Local law plans created by special act~~
282 ~~before May 27, 1939, are deemed to comply with this chapter. For~~
283 ~~the purpose of this chapter, the term:~~

284 ~~(a) "additional premium tax revenues" means revenues~~
285 ~~received by a municipality or special fire control district~~
286 ~~pursuant to s. 175.121 which exceed that amount received for~~
287 ~~calendar year 1997. Once a plan is in compliance with the~~
288 ~~minimum benefit provisions of this chapter, the provisions of~~
289 ~~subsection (1) apply.~~

290 ~~(b) "Extra benefits" means benefits in addition to or~~

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291 ~~greater than those provided to general employees of the~~
292 ~~municipality and in addition to those in existence for~~
293 ~~firefighters on March 12, 1999.~~

294 (3) A retirement plan or amendment to a retirement plan may
295 not be proposed for adoption unless the proposed plan or
296 amendment contains an actuarial estimate of the costs involved.
297 The ~~Such~~ proposed plan or proposed plan change may not be
298 adopted without the approval of the municipality, special fire
299 control district, or, if required ~~where permitted~~, the
300 Legislature. Copies of the proposed plan or proposed plan change
301 and the actuarial impact statement of the proposed plan or
302 proposed plan change shall be furnished to the division before
303 the last public hearing thereon. Such statement must also
304 indicate whether the proposed plan or proposed plan change is in
305 compliance with s. 14, Art. X of the State Constitution and
306 those provisions of part VII of chapter 112 which are not
307 expressly provided in this chapter. Notwithstanding any other
308 provision, only those local law plans created by special act of
309 legislation before May 27, 1939, are deemed to meet the minimum
310 benefits and minimum standards only in this chapter.

311 (4) Notwithstanding any other provision, with respect to
312 any supplemental plan municipality:

313 (a) A local law plan and a supplemental plan may continue
314 to use their definition of compensation or salary in existence
315 on March 12, 1999.

316 (b) Section 175.061(1)(b) does not apply, and a local law
317 plan and a supplemental plan shall continue to be administered
318 by a board or boards of trustees numbered, constituted, and
319 selected as the board or boards were numbered, constituted, and

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320 selected on December 1, 2000.

321 (c) The election set forth in paragraph (1)(b) is deemed to
322 have been made.

323 (d) The annual amount of premium tax revenues allocated to
324 the supplemental plan shall be determined through collective
325 bargaining, where applicable, and in accordance with the pension
326 plan where collective bargaining does not apply. If the term of
327 a collective bargaining agreement ends without a new collective
328 bargaining agreement in effect, the amount of premium tax
329 revenues allocated to the supplemental plan shall be determined
330 unilaterally by the municipality or special fire control
331 district for the period of time from the end of the collective
332 bargaining agreement until the effective date of the subsequent
333 collective bargaining agreement.

334 (5) The retirement plan setting forth the benefits and the
335 trust agreement, if any, covering the duties and
336 responsibilities of the trustees and the regulations of the
337 investment of funds must be in writing, and copies made
338 available to the participants and to the general public.

339 (6) A municipality or special fire control district may
340 unilaterally establish one or more new plans, or benefit levels
341 within a plan, which provide different benefit levels for plan
342 members based on the member's date of hire if the new plan or
343 benefit level provides pension benefits that, in the aggregate,
344 meet or exceed the minimum benefits set forth in this chapter,
345 as determined by the plan's or employer's actuary. A
346 municipality or special fire control district may unilaterally
347 elect to maintain an existing plan and join the Florida
348 Retirement System or establish a defined contribution retirement

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349 plan for employees hired after a specified date. A municipality
350 or special fire control district choosing to operate under this
351 subsection shall use the premium tax provided under this chapter
352 for the current plan or benefit level, for any additional plan
353 or benefit level, for contributions to the Florida Retirement
354 System, or for contributions to a defined contribution
355 retirement plan.

356 Section 6. Section 175.361, Florida Statutes, is amended to
357 read:

358 175.361 Termination of plan and distribution of fund.—For
359 any municipality, special fire control district, chapter plan,
360 local law municipality, local law special fire control district,
361 or local law plan under this chapter, the plan may be terminated
362 by the municipality or special fire control district. Upon
363 termination of the plan by the municipality or special fire
364 control district for any reason or because of a transfer,
365 merger, or consolidation of governmental units, services, or
366 functions as provided in chapter 121, or upon written notice by
367 the municipality or special fire control district to the board
368 of trustees that contributions under the plan are being
369 permanently discontinued, the rights of all employees to
370 benefits accrued to the date of such termination and the amounts
371 credited to the employees' accounts are nonforfeitable. The fund
372 shall be distributed in accordance with the following
373 procedures:

374 (1) The board of trustees, subject to prior written
375 approval of the municipality or special fire control district,
376 shall determine the date of distribution and the asset value
377 required to fund all the nonforfeitable benefits after taking

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378 into account the expenses of such distribution. The board shall
379 inform the municipality or special fire control district if
380 additional assets are required, in which event the municipality
381 or special fire control district shall continue to financially
382 support the plan until all nonforfeitable benefits have been
383 funded.

384 (2) The board of trustees, subject to prior written
385 approval of the municipality or special fire control district,
386 shall determine the method of distribution of the asset value,
387 whether distribution shall be by payment in cash, by the
388 maintenance of another or substituted trust fund, by the
389 purchase of insured annuities, or otherwise, for each
390 firefighter entitled to benefits under the plan as specified in
391 subsection (3).

392 (3) The board of trustees, subject to prior written
393 approval of the municipality or special fire control district,
394 shall distribute the asset value as of the date of termination
395 in the manner set forth in this subsection, on the basis that
396 the amount required to provide any given retirement income is
397 the actuarially computed single-sum value of such retirement
398 income, except that if the method of distribution determined
399 under subsection (2) involves the purchase of an insured
400 annuity, the amount required to provide the given retirement
401 income is the single premium payable for such annuity. The
402 actuarial single-sum value may not be less than the employee's
403 accumulated contributions to the plan, with interest if provided
404 by the plan, less the value of any plan benefits previously paid
405 to the employee.

406 (4) If there is asset value remaining after the full

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407 distribution specified in subsection (3), and after the payment
408 of any expenses incurred with such distribution, such excess
409 shall be returned to the municipality or special fire control
410 district, less return to the state of the state's contributions,
411 provided that, if the excess is less than the total
412 contributions made by the municipality or special fire control
413 district and the state to date of termination of the plan, such
414 excess shall be divided proportionately to the total
415 contributions made by the municipality or special fire control
416 district and the state.

417 (5) The board of trustees, subject to prior written
418 approval of the municipality or special fire control district,
419 shall distribute, in accordance with subsection (2), the amounts
420 determined under subsection (3).

421
422 If, after 24 months after the date the plan terminated or the
423 date the board received written notice that the contributions
424 thereunder were being permanently discontinued, the municipality
425 or special fire control district or the board of trustees of the
426 firefighters' pension trust fund affected has not complied with
427 all the provisions in this section, the Department of Management
428 Services shall effect the termination of the fund in accordance
429 with this section and in the manner having the least fiscal
430 impact on the municipality or special fire control district.

431 Section 7. Subsection (4) of section 185.02, Florida
432 Statutes, is amended to read:

433 185.02 Definitions.—For any municipality, chapter plan,
434 local law municipality, or local law plan under this chapter,
435 the following words and phrases as used in this chapter shall

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436 have the following meanings, unless a different meaning is
437 plainly required by the context:

438 (4) "Compensation" or "salary" means, for noncollectively
439 bargained service earned before July 1, 2011, or for service
440 earned under collective bargaining agreements in place before
441 July 1, 2011, the total cash remuneration including "overtime"
442 paid by the primary employer to a police officer for services
443 rendered, but not including any payments for extra duty or
444 special detail work performed on behalf of a second party
445 employer. A local law plan may limit the amount of overtime
446 payments which can be used for retirement benefit calculation
447 purposes; ~~however, such overtime limit may not be less than 300~~
448 ~~hours per officer per calendar year.~~ For noncollectively
449 bargained service earned on or after July 1, 2011, or for
450 service earned under collective bargaining agreements entered
451 into on or after July 1, 2011, the term has the same meaning
452 except that when calculating retirement benefits, up to 300
453 hours per year in overtime compensation may be included as
454 specified in the plan or collective bargaining agreement, but
455 payments for accrued unused sick or annual leave may not be
456 included.

457 (a) Any retirement trust fund or plan that meets the
458 requirements of this chapter does not, solely by virtue of this
459 subsection, reduce or diminish the monthly retirement income
460 otherwise payable to each police officer covered by the
461 retirement trust fund or plan.

462 (b) The member's compensation or salary contributed as
463 employee-elective salary reductions or deferrals to any salary
464 reduction, deferred compensation, or tax-sheltered annuity

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465 program authorized under the Internal Revenue Code shall be
466 deemed to be the compensation or salary the member would receive
467 if he or she were not participating in such program and shall be
468 treated as compensation for retirement purposes under this
469 chapter.

470 (c) For any person who first becomes a member in any plan
471 year beginning on or after January 1, 1996, compensation for
472 that plan year may not include any amounts in excess of the
473 Internal Revenue Code s. 401(a)(17) limitation, as amended by
474 the Omnibus Budget Reconciliation Act of 1993, which limitation
475 of \$150,000 shall be adjusted as required by federal law for
476 qualified government plans and shall be further adjusted for
477 changes in the cost of living in the manner provided by Internal
478 Revenue Code s. 401(a)(17)(B). For any person who first became a
479 member before the first plan year beginning on or after January
480 1, 1996, the limitation on compensation may not be less than the
481 maximum compensation amount that was allowed to be taken into
482 account under the plan as in effect on July 1, 1993, which
483 limitation shall be adjusted for changes in the cost of living
484 since 1989 in the manner provided by Internal Revenue Code s.
485 401(a)(17)(1991).

486 Section 8. Subsection (8) is added to section 185.05,
487 Florida Statutes, to read:

488 185.05 Board of trustees; members; terms of office;
489 meetings; legal entity; costs; attorney's fees.—For any
490 municipality, chapter plan, local law municipality, or local law
491 plan under this chapter:

492 (8) The board of trustees shall:

493 (a) Provide a detailed accounting report of its expenses

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494 for each fiscal year to the plan sponsor and the Department of
495 Management Services and make the report available to every
496 member of the plan. The report must include, but need not be
497 limited to, all administrative expenses that, for purposes of
498 this subsection, are expenses relating to any legal counsel,
499 actuary, plan administrator, and all other consultants, and all
500 travel and other expenses paid to or on behalf of the members of
501 the board of trustees or anyone else on behalf of the plan.

502 (b) Operate under an administrative expense budget for each
503 fiscal year, provide a copy of the budget to the plan sponsor,
504 and make available a copy of the budget to plan members before
505 the beginning of the fiscal year. The administrative expense
506 budget must regulate the administrative expenses of the board of
507 trustees. If the board of trustees amends the administrative
508 expense budget, the board must provide a copy of the amended
509 budget to the plan sponsor and make available a copy of the
510 amended budget to plan members before the amendment takes
511 effect.

512 Section 9. Subsection (6) of section 185.06, Florida
513 Statutes, is amended to read:

514 185.06 General powers and duties of board of trustees.—For
515 any municipality, chapter plan, local law municipality, or local
516 law plan under this chapter:

517 (6) To assist the board in meeting its responsibilities
518 under this chapter, the board, if it so elects, and subject to
519 s. 185.05(8), may:

520 (a) Employ independent legal counsel at the pension fund's
521 expense.

522 (b) Employ an independent actuary, as defined in s.

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523 185.02(8), at the pension fund's expense.

524 (c) Employ such independent professional, technical, or
525 other advisers as it deems necessary at the pension fund's
526 expense.

527

528 If the board chooses to use the municipality's or special
529 district's legal counsel or actuary, or chooses to use any of
530 the municipality's ~~other~~ professional, technical, or other
531 advisers, it must do so only under terms and conditions
532 acceptable to the board.

533 Section 10. Section 185.34, Florida Statutes, is amended to
534 read:

535 185.34 Disability in line of duty.—For any municipality,
536 chapter plan, local law municipality, or local law plan under
537 this chapter, any condition or impairment of health of any ~~and~~
538 all police officer officers employed in the state, who has been
539 employed by the current employer for at least 5 years and who is
540 less than 37 years of age, caused by tuberculosis, hypertension,
541 heart disease, or hardening of the arteries, resulting in total
542 or partial disability or death, shall be presumed to be
543 accidental and suffered in line of duty unless the contrary be
544 shown by a preponderance of the competent evidence. Any
545 condition or impairment of health caused directly or proximately
546 by exposure, which exposure occurred in the active performance
547 of duty at some definite time or place without willful
548 negligence on the part of the police officer, resulting in total
549 or partial disability, shall be presumed to be accidental and
550 suffered in the line of duty, provided that such police officer
551 shall have successfully passed a physical examination upon

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552 entering such service, which physical examination including
553 electrocardiogram failed to reveal any evidence of such
554 condition, and, further, that such presumption shall not apply
555 to benefits payable under or granted in a policy of life
556 insurance or disability insurance. Risk factors and
557 epidemiological data relating to nonwork-related conditions
558 unique to an individual, such as blood cholesterol, body mass
559 index, history of tobacco and alcohol use, and other medical
560 conditions or behaviors that are associated with the disease or
561 condition subject to the presumption, are appropriate for
562 consideration in denying or overcoming the presumption. This
563 section shall be applicable to all police officers only with
564 reference to pension and retirement benefits under this chapter.

565 Section 11. Section 185.35, Florida Statutes, is amended to
566 read:

567 185.35 Municipalities having their own pension plans for
568 police officers.—For any municipality, chapter plan, local law
569 municipality, or local law plan under this chapter, in order for
570 municipalities with their own pension plans for police officers,
571 or for police officers and firefighters if included, to
572 participate in the distribution of the tax fund established
573 pursuant to s. 185.08, local law plans must meet the minimum
574 benefits and minimum standards set forth in this chapter.÷

575 (1) Notwithstanding any other provision, retirement
576 benefits provided pursuant to this chapter and the use of the
577 income from the premium tax in s. 185.08 must be determined and
578 implemented in accordance with the collective bargaining
579 process, and where collective bargaining is not applicable, in
580 accordance with the pension plan, except as provided in

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581 subsection (2). If the term of a collective bargaining agreement
582 ends without a new collective bargaining agreement in effect,
583 the retirement benefits of a plan operating pursuant to this
584 chapter shall revert to the minimum benefit provisions of this
585 chapter for the period of time from the end of the collective
586 bargaining agreement until the effective date of the subsequent
587 collective bargaining agreement, and the income from the premium
588 tax may be used for any retirement benefit provided pursuant to
589 this chapter as determined unilaterally by the municipality. ~~If~~
590 ~~a municipality has a pension plan for police officers, or for~~
591 ~~police officers and firefighters if included, which, in the~~
592 ~~opinion of the division, meets the minimum benefits and minimum~~
593 ~~standards set forth in this chapter, the board of trustees of~~
594 ~~the pension plan, as approved by a majority of police officers~~
595 ~~of the municipality, may:~~

596 ~~(a) Place the income from the premium tax in s. 185.08 in~~
597 ~~such pension plan for the sole and exclusive use of its police~~
598 ~~officers, or its police officers and firefighters if included,~~
599 ~~where it shall become an integral part of that pension plan and~~
600 ~~shall be used to pay extra benefits to the police officers~~
601 ~~included in that pension plan; or~~

602 ~~(b) May place the income from the premium tax in s. 185.08~~
603 ~~in a separate supplemental plan to pay extra benefits to the~~
604 ~~police officers, or police officers and firefighters if~~
605 ~~included, participating in such separate supplemental plan.~~

606 ~~(2) The premium tax provided by this chapter shall in all~~
607 ~~cases be used in its entirety to provide extra benefits to~~
608 ~~police officers, or to police officers and firefighters if~~
609 ~~included. For However, local law plans in effect on October 1,~~

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610 1998, which do not ~~must~~ comply with the minimum benefit
611 provisions of this chapter, as ~~only to the extent that~~
612 additional premium tax revenues become available, such revenues
613 shall be used to incrementally fund the cost of such compliance
614 as provided in s. 185.16(2). ~~If a plan is in compliance with~~
615 ~~such minimum benefit provisions, as subsequent additional tax~~
616 ~~revenues become available, they shall be used to provide extra~~
617 ~~benefits.~~ Local law plans created by special act before May 27,
618 1939, shall be deemed to comply with this chapter. For the
619 purpose of this chapter, the term:

620 ~~(a)~~ "additional premium tax revenues" means revenues
621 received by a municipality pursuant to s. 185.10 which exceed
622 the amount received for calendar year 1997. Once a plan is in
623 compliance with the minimum benefit provisions of this chapter,
624 the provisions of subsection (1) apply.

625 ~~(b)~~ "Extra benefits" ~~means benefits in addition to or~~
626 ~~greater than those provided to general employees of the~~
627 ~~municipality and in addition to those in existence for police~~
628 ~~officers on March 12, 1999.~~

629 (3) A retirement plan or amendment to a retirement plan may
630 not be proposed for adoption unless the proposed plan or
631 amendment contains an actuarial estimate of the costs involved.
632 The ~~Such~~ proposed plan or proposed plan change may not be
633 adopted without the approval of the municipality or, if required
634 ~~where permitted,~~ the Legislature. Copies of the proposed plan or
635 proposed plan change and the actuarial impact statement of the
636 proposed plan or proposed plan change shall be furnished to the
637 division before the last public hearing thereon. Such statement
638 must also indicate whether the proposed plan or proposed plan

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639 change is in compliance with s. 14, Art. X of the State
640 Constitution and those provisions of part VII of chapter 112
641 which are not expressly provided in this chapter.

642 Notwithstanding any other provision, only those local law plans
643 created by special act of legislation before May 27, 1939, are
644 deemed to meet the minimum benefits and minimum standards only
645 in this chapter.

646 (4) Notwithstanding any other provision, with respect to
647 any supplemental plan municipality:

648 (a) ~~Section 185.02(4)(a) does not apply, and~~ A local law
649 plan and a supplemental plan may continue to use their
650 definition of compensation or salary in existence on March 12,
651 1999.

652 (b) Section 185.05(1)(b) does not apply, and a local law
653 plan and a supplemental plan must continue to be administered by
654 a board or boards of trustees numbered, constituted, and
655 selected as the board or boards were numbered, constituted, and
656 selected on December 1, 2000.

657 (c) The election set forth in paragraph (1)(b) is deemed to
658 have been made.

659 (d) The annual amount of premium tax revenues allocated to
660 the supplemental plan shall be determined through collective
661 bargaining, where applicable, and in accordance with the pension
662 plan where collective bargaining does not apply. If the term of
663 a collective bargaining agreement ends without a new collective
664 bargaining agreement in effect, the amount of premium tax
665 revenues allocated to the supplemental plan shall be determined
666 unilaterally by the municipality for the period of time from the
667 end of the collective bargaining agreement until the effective

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668 date of the subsequent collective bargaining agreement.

669 (5) The retirement plan setting forth the benefits and the
670 trust agreement, if any, covering the duties and
671 responsibilities of the trustees and the regulations of the
672 investment of funds must be in writing and copies made available
673 to the participants and to the general public.

674 (6) A municipality may unilaterally establish one or more
675 new plans, or benefit levels within a plan, which provide
676 different benefit levels for plan members based on the member's
677 date of hire if the new plan or benefit level provides pension
678 benefits that, in the aggregate, meet or exceed the minimum
679 benefits set forth in this chapter, as determined by the plan's
680 or employer's actuary. A municipality may unilaterally elect to
681 maintain an existing plan and join the Florida Retirement System
682 or establish a defined contribution retirement plan for
683 employees hired after a specified date. A municipality choosing
684 to operate under this subsection shall use the premium tax
685 provided under this chapter for the current plan or benefit
686 level, for any additional plan or benefit level, for
687 contributions to the Florida Retirement System, or for
688 contributions to a defined contribution retirement plan.

689 Section 12. Section 185.37, Florida Statutes, is amended to
690 read:

691 185.37 Termination of plan and distribution of fund.—For
692 any municipality, chapter plan, local law municipality, or local
693 law plan under this chapter, the plan may be terminated by the
694 municipality. Upon termination of the plan by the municipality
695 for any reason, or because of a transfer, merger, or
696 consolidation of governmental units, services, or functions as

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697 provided in chapter 121, or upon written notice to the board of
698 trustees by the municipality that contributions under the plan
699 are being permanently discontinued, the rights of all employees
700 to benefits accrued to the date of such termination or
701 discontinuance and the amounts credited to the employees'
702 accounts are nonforfeitable. The fund shall be distributed in
703 accordance with the following procedures:

704 (1) The board of trustees, subject to prior written
705 approval of the municipality, shall determine the date of
706 distribution and the asset value required to fund all the
707 nonforfeitable benefits, after taking into account the expenses
708 of such distribution. The board shall inform the municipality if
709 additional assets are required, in which event the municipality
710 shall continue to financially support the plan until all
711 nonforfeitable benefits have been funded.

712 (2) The board of trustees, subject to prior written
713 approval of the municipality, shall determine the method of
714 distribution of the asset value, whether distribution shall be
715 by payment in cash, by the maintenance of another or substituted
716 trust fund, by the purchase of insured annuities, or otherwise,
717 for each police officer entitled to benefits under the plan, as
718 specified in subsection (3).

719 (3) The board of trustees, subject to prior written
720 approval of the municipality, shall distribute the asset value
721 as of the date of termination in the manner set forth in this
722 subsection, on the basis that the amount required to provide any
723 given retirement income is the actuarially computed single-sum
724 value of such retirement income, except that if the method of
725 distribution determined under subsection (2) involves the

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726 purchase of an insured annuity, the amount required to provide
727 the given retirement income is the single premium payable for
728 such annuity. The actuarial single-sum value may not be less
729 than the employee's accumulated contributions to the plan, with
730 interest if provided by the plan, less the value of any plan
731 benefits previously paid to the employee.

732 (4) If there is asset value remaining after the full
733 distribution specified in subsection (3), and after payment of
734 any expenses incurred with such distribution, such excess shall
735 be returned to the municipality, less return to the state of the
736 state's contributions, provided that, if the excess is less than
737 the total contributions made by the municipality and the state
738 to date of termination of the plan, such excess shall be divided
739 proportionately to the total contributions made by the
740 municipality and the state.

741 (5) The board of trustees, subject to prior written
742 approval of the municipality, shall distribute, in accordance
743 with the manner of distribution determined under subsection (2),
744 the amounts determined under subsection (3).

745
746 If, after 24 months after the date the plan terminated or the
747 date the board received written notice that the contributions
748 thereunder were being permanently discontinued, the municipality
749 or the board of trustees of the municipal police officers'
750 retirement trust fund affected has not complied with all the
751 provisions in this section, the Department of Management
752 Services shall effect the termination of the fund in accordance
753 with this section and in the manner having the least fiscal
754 impact on the municipality.

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755 Section 13. The Legislature finds that a proper and
756 legitimate state purpose is served when employees and retirees
757 of the state and its political subdivisions, and the dependents,
758 survivors, and beneficiaries of such employees and retirees are
759 extended the basic protections afforded by governmental
760 retirement systems that provide fair and adequate benefits and
761 that are managed, administered, and funded in an actuarially
762 sound manner as required by s. 14, Article X of the State
763 Constitution and part VII of chapter 112, Florida Statutes.
764 Therefore, the Legislature determines and declares that this act
765 fulfills an important state interest.

766 Section 14. This act shall take effect July 1, 2012.