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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2013	.	
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The Committee on Governmental Oversight and Accountability
(Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 76 - 576
and insert:

(6) "Defined contribution plan" means the component of a local law plan to which deposits are made to provide benefits for firefighters, or for firefighters and police officers if both are included, under this chapter. Such component is an element of a local law plan and exists in conjunction with the defined benefit component that meets the minimum benefits and minimum standards of this chapter. The retirement benefits of the defined contribution plan shall be provided through member-



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13 directed investments, in accordance with s. 401(a), s. 401(k),
14 or s. 457 of the Internal Revenue Code and related regulations.

15 (12)~~(11)~~ "Local law plan" means a retirement defined
16 benefit pension plan, which includes both a defined benefit plan
17 component and a defined contribution plan component, for
18 firefighters, or for firefighters or police officers if both are
19 ~~where~~ included, as described in s. 175.351, established by
20 municipal ordinance, special district resolution, or special act
21 of the Legislature, which ~~enactment~~ sets forth all plan
22 provisions. Local law plan provisions may vary from the
23 provisions of this chapter if the, ~~provided that required~~
24 minimum benefits and minimum standards of this chapter are met.
25 However, any such variance must ~~shall~~ provide a greater benefit
26 for firefighters. Actuarial valuations of local law plans shall
27 be conducted by an enrolled actuary as provided in s.
28 175.261(2).

29 (18)~~(17)~~ "Supplemental plan" means a plan to which deposits
30 are made to provide extra benefits for firefighters, or for
31 firefighters and police officers if both are ~~where~~ included,
32 under this chapter. Such a plan is an element of a local law
33 plan and exists in conjunction with a defined benefit component
34 ~~plan~~ that meets the minimum benefits and minimum standards of
35 this chapter.

36 Section 2. Paragraph (b) of subsection (7) of section
37 175.071, Florida Statutes, is amended to read:

38 175.071 General powers and duties of board of trustees.—For
39 any municipality, special fire control district, chapter plan,
40 local law municipality, local law special fire control district,
41 or local law plan under this chapter:



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42 (7) To assist the board in meeting its responsibilities
43 under this chapter, the board, if it so elects, may:

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

46
47 If the board chooses to use the municipality's or special
48 district's legal counsel or actuary, or chooses to use any of
49 the municipality's or special district's other professional,
50 technical, or other advisers, it must do so only under terms and
51 conditions acceptable to the board.

52 Section 3. Section 175.351, Florida Statutes, is amended to
53 read:

54 175.351 Municipalities and special fire control districts
55 having their own pension plans for firefighters. ~~For any~~
56 ~~municipality, special fire control district, local law~~
57 ~~municipality, local law special fire control district, or local~~
58 ~~law plan under this chapter,~~ In order for a municipality or
59 ~~municipalities and special fire control~~ district that has its
60 ~~districts with their own pension plan plans~~ for firefighters, or
61 for firefighters and police officers if both are included, to
62 participate in the distribution of the tax fund established
63 under pursuant to s. 175.101, a local law plan and its plan
64 sponsor plans must meet the minimum benefits and minimum
65 standards set forth in this chapter.

66 (1) As used in this section, the term:

67 (a) "Additional premium tax revenues" means revenues
68 received by a municipality or special fire control district
69 pursuant to s. 175.121 which exceed base premium tax revenues.

70 (b) "Base benefits" means those benefits in existence for



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71 firefighters on March 12, 1999.

72 (c) "Base premium tax revenues" means revenues received by
73 a municipality or special fire control district pursuant to s.
74 175.121 equal to the amount of such revenues received for
75 calendar year 1997.

76 (d) "Extra benefits" means benefits in addition to or
77 greater than those provided to general employees of the
78 municipality and in addition to those in existence for
79 firefighters on March 12, 1999.

80 (2)(1) If a municipality has a pension plan for
81 firefighters, or a pension plan for firefighters and police
82 officers if both are included, which in the opinion of the
83 division meets the minimum benefits and minimum standards set
84 forth in this chapter, the board of trustees of the pension
85 plan, as approved by a majority of firefighters of the
86 municipality, must ~~may~~

87 ~~(a)~~ place the income from the premium tax in s. 175.101 in
88 such ~~pension~~ plan for the sole and exclusive use of its
89 firefighters, or for firefighters and police officers if both
90 are included, where it shall become an integral part of that
91 ~~pension~~ plan and ~~shall~~ be used to fund benefits for firefighters
92 as follows:

93 (a) The base premium tax revenues must be used to fund base
94 benefits.

95 (b) Additional premium tax revenues must be used to fund:

96 1. Any minimum benefits that were not included in the base
97 benefits; and

98 2. Any extra benefits that were added after March 12, 1999,
99 except as provided in subsection (4) ~~to pay extra benefits to~~



100 ~~the firefighters included in that pension plan; or~~
101 ~~(b) Place the income from the premium tax in s. 175.101 in~~
102 ~~a separate supplemental plan to pay extra benefits to~~
103 ~~firefighters, or to firefighters and police officers if~~
104 ~~included, participating in such separate supplemental plan.~~
105 (3) Insurance premium tax revenues may not be used to fund
106 benefits provided in a defined benefit plan which were not
107 provided by the plan as of March 1, 2013.
108 (4) If a plan offers extra benefits, such benefits may be
109 reduced if the plan continues to meet the base benefits of the
110 plan and the minimum standards set forth in this chapter. Fifty
111 percent of the amount of insurance premium tax revenues
112 previously used to fund extra benefits before the reduction must
113 be used as additional contributions to fund the plan's actuarial
114 deficiency, and the remaining 50 percent must be used to fund
115 the base benefits.
116 (5)(2) The premium tax provided by this chapter shall in
117 all cases be used in its entirety to provide retirement extra
118 benefits to firefighters, or to firefighters and police officers
119 if both are included. However, local law plans in effect on
120 October 1, 1998, must comply with the minimum benefit provisions
121 of this chapter only to the extent that additional premium tax
122 revenues become available to incrementally fund the cost of such
123 compliance as provided in s. 175.162(2)(a). If a plan is in
124 compliance with such minimum benefit provisions, as subsequent
125 additional premium tax revenues become available, they must be
126 used to provide extra benefits. Local law plans created by
127 special act before May 27, 1939, are deemed to comply with this
128 chapter. For the purpose of this chapter, the term:



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129 ~~(a) "Additional premium tax revenues" means revenues~~
130 ~~received by a municipality or special fire control district~~
131 ~~pursuant to s. 175.121 which exceed that amount received for~~
132 ~~calendar year 1997.~~

133 ~~(b) "Extra benefits" means benefits in addition to or~~
134 ~~greater than those provided to general employees of the~~
135 ~~municipality and in addition to those in existence for~~
136 ~~firefighters on March 12, 1999.~~

137 (6)~~(3)~~ A retirement plan or amendment to a retirement plan
138 may not be proposed for adoption unless the proposed plan or
139 amendment contains an actuarial estimate of the costs involved.
140 Such proposed plan or proposed plan change may not be adopted
141 without the approval of the municipality, special fire control
142 district, or, where permitted, the Legislature. Copies of the
143 proposed plan or proposed plan change and the actuarial impact
144 statement of the proposed plan or proposed plan change shall be
145 furnished to the division before the last public hearing
146 thereon. Such statement must also indicate whether the proposed
147 plan or proposed plan change is in compliance with s. 14, Art. X
148 of the State Constitution and those provisions of part VII of
149 chapter 112 which are not expressly provided in this chapter.
150 Notwithstanding any other provision, only those local law plans
151 created by special act of legislation before May 27, 1939, are
152 deemed to meet the minimum benefits and minimum standards only
153 in this chapter.

154 (7)~~(4)~~ Notwithstanding any other provision, with respect to
155 any supplemental plan municipality:

156 (a) A local law plan and a supplemental plan may continue
157 to use their definition of compensation or salary in existence



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158 on March 12, 1999.

159 (b) Section 175.061(1)(b) does not apply, and a local law
160 plan and a supplemental plan shall continue to be administered
161 by a board or boards of trustees numbered, constituted, and
162 selected as the board or boards were numbered, constituted, and
163 selected on December 1, 2000.

164 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~
165 ~~have been made.~~

166 ~~(8)(5)~~ The retirement plan setting forth the benefits and
167 the trust agreement, if any, covering the duties and
168 responsibilities of the trustees and the regulations of the
169 investment of funds must be in writing, and copies made
170 available to the participants and to the general public.

171 Section 4. Present subsections (7) through (16) of section
172 185.02, Florida Statutes, are renumbered as subsections (8)
173 through (17), respectively, a new subsection (7) is added to
174 that section, and subsection (4), paragraph (c) of subsection
175 (5), and present subsections (10) and (15) of that section are
176 amended, to read:

177 185.02 Definitions.—For any municipality, chapter plan,
178 local law municipality, or local law plan under this chapter,
179 the following words and phrases as used in this chapter shall
180 have the following meanings, unless a different meaning is
181 plainly required by the context:

182 (4) "Compensation" or "salary" means, for noncollectively
183 bargained service earned before July 1, 2011, or for service
184 earned under collective bargaining agreements in place before
185 July 1, 2011, the total cash remuneration including "overtime"
186 paid by the primary employer to a police officer for services



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187 rendered, but not including any payments for extra duty or
188 special detail work performed on behalf of a second party
189 employer. ~~A local law plan may limit the amount of overtime~~
190 ~~payments which can be used for retirement benefit calculation~~
191 ~~purposes; however, such overtime limit may not be less than 300~~
192 ~~hours per officer per calendar year.~~ For noncollectively
193 bargained service earned on or after July 1, 2011, or for
194 service earned under collective bargaining agreements entered
195 into on or after July 1, 2011, the term has the same meaning
196 except that when calculating retirement benefits, up to 300
197 hours per year in overtime compensation may be included as
198 specified in the plan or collective bargaining agreement, but
199 payments for accrued unused sick or annual leave may not be
200 included.

201 (a) Any retirement trust fund or plan that meets the
202 requirements of this chapter does not, solely by virtue of this
203 subsection, reduce or diminish the monthly retirement income
204 otherwise payable to each police officer covered by the
205 retirement trust fund or plan.

206 (b) The member's compensation or salary contributed as
207 employee-elective salary reductions or deferrals to any salary
208 reduction, deferred compensation, or tax-sheltered annuity
209 program authorized under the Internal Revenue Code shall be
210 deemed to be the compensation or salary the member would receive
211 if he or she were not participating in such program and ~~shall be~~
212 treated as compensation for retirement purposes under this
213 chapter.

214 (c) For any person who first becomes a member in any plan
215 year beginning on or after January 1, 1996, compensation for



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216 that plan year may not include any amounts in excess of the
217 Internal Revenue Code s. 401(a)(17) limitation, as amended by
218 the Omnibus Budget Reconciliation Act of 1993, which limitation
219 of \$150,000 shall be adjusted as required by federal law for
220 qualified government plans and ~~shall be~~ further adjusted for
221 changes in the cost of living in the manner provided by Internal
222 Revenue Code s. 401(a)(17)(B). For any person who first became a
223 member before the first plan year beginning on or after January
224 1, 1996, the limitation on compensation may not be less than the
225 maximum compensation amount that was allowed to be taken into
226 account under the plan ~~as~~ in effect on July 1, 1993, which
227 limitation shall be adjusted for changes in the cost of living
228 since 1989 in the manner provided by Internal Revenue Code s.
229 401(a)(17)(1991).

230 (5) "Creditable service" or "credited service" means the
231 aggregate number of years of service and fractional parts of
232 years of service of any police officer, omitting intervening
233 years and fractional parts of years when such police officer may
234 not have been employed by the municipality subject to the
235 following conditions:

236 (c) Credited service under this chapter shall be provided
237 only for service as a police officer, ~~as defined in subsection~~
238 ~~(11)~~, or for military service and may not include credit for any
239 other type of service. A municipality ~~may~~, by local ordinance,
240 may provide for the purchase of credit for military service
241 occurring before employment as well as prior service as a police
242 officer for some other employer as long as the police officer is
243 not entitled to receive a benefit for such other prior service
244 as a police officer. For purposes of determining credit for



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245 prior service, in addition to service as a police officer in
246 this state, credit may be given for federal, other state, or
247 county service as long as such service is recognized by the
248 Criminal Justice Standards and Training Commission within the
249 Department of Law Enforcement as provided under chapter 943 or
250 the police officer provides proof to the board of trustees that
251 such service is equivalent to the service required to meet the
252 definition of a police officer under subsection (12) ~~(11)~~.

253 (7) "Defined contribution plan" means the component of a
254 local law plan to which deposits are made to provide benefits
255 for police officers, or for police officers and firefighters if
256 both are included. Such component is an element of a local law
257 plan and exists in conjunction with the defined benefit
258 component that meets the minimum benefits and minimum standards
259 of this chapter. The retirement benefits of the defined
260 contribution plan shall be provided through member-directed
261 investments, in accordance with s. 401(a), s. 401(k), or s. 457
262 of the Internal Revenue Code and related regulations.

263 (11) ~~(10)~~ "Local law plan" means a retirement defined
264 benefit pension plan, which includes both a defined benefit plan
265 component and a defined contribution plan component, for police
266 officers, or for police officers and firefighters if both are,
267 ~~where~~ included, as described in s. 185.35, established by
268 municipal ordinance or special act of the Legislature, which
269 ~~enactment~~ sets forth all plan provisions. Local law plan
270 provisions may vary from the provisions of this chapter if the,
271 ~~provided that required~~ minimum benefits and minimum standards of
272 this chapter are met. However, any such variance must ~~shall~~
273 provide a greater benefit for police officers. Actuarial



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274 valuations of local law plans shall be conducted by an enrolled
275 actuary as provided in s. 185.221(2) (b).

276 ~~(15)~~ (16) "Supplemental plan" means a plan to which deposits
277 of the premium tax moneys as provided in s. 185.08 are made to
278 provide extra benefits to police officers, or police officers
279 and firefighters if both are ~~where~~ included, under this chapter.
280 Such a plan is an element of a local law plan and exists in
281 conjunction with a defined benefit component ~~plan~~ that meets the
282 minimum benefits and minimum standards of this chapter.

283 Section 5. Paragraph (b) of subsection (6) of section
284 185.06, Florida Statutes, is amended to read:

285 185.06 General powers and duties of board of trustees.—For
286 any municipality, chapter plan, local law municipality, or local
287 law plan under this chapter:

288 (6) To assist the board in meeting its responsibilities
289 under this chapter, the board, if it so elects, may:

290 (b) Employ an independent enrolled actuary, as defined in
291 s. 185.02~~(8)~~, at the pension fund's expense.

292
293 If the board chooses to use the municipality's or special
294 district's legal counsel or actuary, or chooses to use any of
295 the municipality's other professional, technical, or other
296 advisers, it must do so only under terms and conditions
297 acceptable to the board.

298 Section 6. Section 185.35, Florida Statutes, is amended to
299 read:

300 185.35 Municipalities having their own pension plans for
301 police officers. ~~For any municipality, chapter plan, local law~~
302 ~~municipality, or local law plan under this chapter,~~ In order for



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303 a municipality municipalities with its their own retirement plan
304 pension plans for police officers, or for police officers and
305 firefighters if both are included, to participate in the
306 distribution of the tax fund established under ~~pursuant to~~ s.
307 185.08, a local law plan and its plan sponsor plans must meet
308 the minimum benefits and minimum standards set forth in this
309 chapter:

310 (1) As used in this section, the term:

311 (a) "Additional premium tax revenues" means revenues
312 received by a municipality pursuant to s. 185.10 which exceed
313 base premium tax revenues.

314 (b) "Base benefits" means benefits in existence for police
315 officers on March 12, 1999.

316 (c) "Base premium tax revenues" means revenues received by
317 a municipality pursuant to s. 185.10 equal to the amount of such
318 revenues received for calendar year 1997.

319 (d) "Extra benefits" means benefits in addition to or
320 greater than those provided to general employees of the
321 municipality and in addition to those in existence for police
322 officers on March 12, 1999.

323 (2)(1) If a municipality has a retirement pension plan for
324 police officers, or for police officers and firefighters if both
325 are included, which, in the opinion of the division, meets the
326 minimum benefits and minimum standards set forth in this
327 chapter, the board of trustees of the pension plan, as approved
328 by a majority of police officers of the municipality, must may-

329 (a) place the income from the premium tax in s. 185.08 in
330 such pension plan for the sole and exclusive use of its police
331 officers, or its police officers and firefighters if included,



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332 where it shall become an integral part of that ~~pension~~ plan and
333 ~~shall~~ be used to fund benefits for police officers as follows:

334 (a) The base premium tax revenues must be used to fund base
335 benefits.

336 (b) Additional premium tax revenues must be used to fund:

337 1. Any minimum benefits that were not included in the base
338 benefits; and

339 2. Any extra benefits that were added after March 12, 1999,
340 except as provided in subsection (4) ~~pay extra benefits to the~~
341 ~~police officers included in that pension plan; or~~

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

346 (3) Insurance premium tax revenues may not be used to fund
347 benefits provided in a defined benefit plan which were not
348 provided by the plan as of March 1, 2013.

349 (4) If a plan offers extra benefits, such benefits may be
350 reduced if the plan continues to meet the base benefits of the
351 plan and the minimum standards set forth in this chapter. Fifty
352 percent of the amount of insurance premium tax revenues
353 previously used to fund extra benefits before the reduction must
354 be used as additional contributions to fund the plan's actuarial
355 deficiency, and the remaining 50 percent must be used to fund
356 the base benefits.

357 (5)~~(2)~~ The premium tax provided by this chapter shall in
358 all cases be used in its entirety to provide extra benefits to
359 police officers, or to police officers and firefighters if both
360 are included. ~~However, local law plans in effect on October 1,~~



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361 ~~1998, must comply with the minimum benefit provisions of this~~
362 ~~chapter only to the extent that additional premium tax revenues~~
363 ~~become available to incrementally fund the cost of such~~
364 ~~compliance as provided in s. 185.16(2). If a plan is in~~
365 ~~compliance with such minimum benefit provisions, as subsequent~~
366 ~~additional tax revenues become available, they shall be used to~~
367 ~~provide extra benefits.~~ Local law plans created by special act
368 before May 27, 1939, shall be deemed to comply with this
369 chapter. For the purpose of this chapter, the term:

370 ~~(a) "Additional premium tax revenues" means revenues~~
371 ~~received by a municipality pursuant to s. 185.10 which exceed~~
372 ~~the amount received for calendar year 1997.~~

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

377 (6)~~(3)~~ A retirement plan or amendment to a retirement plan
378 may not be proposed for adoption unless the proposed plan or
379 amendment contains an actuarial estimate of the costs involved.
380 Such proposed plan or proposed plan change may not be adopted
381 without the approval of the municipality or, where permitted,
382 the Legislature. Copies of the proposed plan or proposed plan
383 change and the actuarial impact statement of the proposed plan
384 or proposed plan change shall be furnished to the division
385 before the last public hearing thereon. Such statement must also
386 indicate whether the proposed plan or proposed plan change is in
387 compliance with s. 14, Art. X of the State Constitution and
388 those provisions of part VII of chapter 112 which are not
389 expressly provided in this chapter. Notwithstanding any other



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390 provision, only those local law plans created by special act of
391 legislation before May 27, 1939, are deemed to meet the minimum
392 benefits and minimum standards only in this chapter.

393 ~~(7)~~(4) Notwithstanding any other provision, with respect to
394 any supplemental plan municipality:

395 (a) Section 185.02(4)(a) does not apply, and a local law
396 plan and a supplemental plan may continue to use their
397 definition of compensation or salary in existence on March 12,
398 1999.

399 (b) A local law plan and a supplemental plan must continue
400 to be administered by a board or boards of trustees numbered,
401 constituted, and selected as the board or boards were numbered,
402 constituted, and selected on December 1, 2000.

403 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~
404 ~~have been made.~~

405 ~~(8)~~(5) The retirement plan setting forth the benefits and
406 the trust agreement, if any, covering the duties and
407 responsibilities of the trustees and the regulations of the
408 investment of funds must be in writing and copies made available
409 to the participants and to the general public.

411 ===== T I T L E A M E N D M E N T =====

412 And the title is amended as follows:

413 Delete lines 7 - 36

414 and insert:

415 reference; amending s. 175.351, F.S., relating to
416 municipalities and special fire control districts that
417 have their own pension plans and want to participate
418 in the distribution of a tax fund; revising



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419 definitions; revising how income from the premium tax
420 must be used; amending s. 185.02, F.S.; revising
421 definitions to conform to changes made by the act and
422 adding a definition of the term "defined contribution
423 plan"; deleting a provision allowing a local law plan
424 to limit the amount of overtime payments which can be
425 used for retirement benefit calculations; amending s.
426 185.06, F.S.; conforming a cross-reference; amending
427 s. 185.35, F.S., relating to municipalities that have
428 their own pension plans for police officers and want
429 to participate in the distribution of a tax fund;
430 revising definitions; revising how income from the
431 premium tax must be used;