

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 931

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Kerner

118 Y's

1 N's

**COMPANION
BILLS:** N/A

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

HB 931 passed the House on April 25, 2014, and subsequently passed the Senate on April 29, 2014.

The West Palm Beach Firefighters Pension Fund was created by the Florida Legislature in 1947. Each firefighter employed by the Fire Department of the City of West Palm Beach is a pension fund participant.

The bill amends the special act that establishes the West Palm Beach Firefighters Pension Fund to provide the following:

- Provide for the use of chapter 175, F.S., premium tax funds to lower the actual employee contribution rate in Fiscal Year 2013-2014 from 25 percent to 13.1 percent, and to lower the required employee contribution rate to 13.1 percent, effective October 1, 2014;
- Clarify that employees are not entitled to a refund of contributions made from chapter 175, F.S., premium tax funds;
- Clarify that after September 30, 2014, premium tax funds will be allocated to the employee shared fund;
- Authorize members with over 10 years of credited service to take a full refund of all contributions, without interest, in exchange for forfeiting all future benefits, including share benefits, of which the member would be entitled;
- Specify that members may designate a beneficiary to receive their remaining benefits in the event that they die under certain circumstances and leave no spouse, children, or parents;
- Shorten the amount of time that transferred leave obtained post retirement remains in the fund from one year, to no more than six months, with grandfather provisions for certain members; and
- Lower the actuarial assumed rate of investment return from 8.25 percent to 8 percent.

The City of West Palm Beach and the International Association of Firefighters Local 727 have agreed in collective bargaining to these benefit and funding changes.

According to the Economic Impact Statement, it is estimated that the City of West Palm Beach's costs for the fund will be reduced by \$1,647,968 in Fiscal Year 2014-2015.

The bill was approved by the Governor on May 12, 2014, and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

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.

The Florida Protection of Public Employee Retirement Benefits Act

Part VII of chapter 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 prohibits a unit of local government from agreeing 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 actuarial 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 Pensions: Chapter 175, F.S.

Chapter 175, F. S., provides the statutory authority for municipal and special fire control district firefighter pensions. The act was established by the Legislature to provide a “uniform retirement system” providing defined benefit plans for firefighters, and setting standards for operation and funding of the system. 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. Special fire control districts became eligible to participate under chapter 175, F.S., in 1993.

Funding for these pension plans comes from four sources: net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the “premium tax”), employee contributions, other revenue sources, and mandatory payments by the city of any extra amount needed to keep the plan solvent.

To qualify for premium tax dollars, plans must meet the requirements found in chapter 175, 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 participate in these plans.

The West Palm Beach Firefighters Pension Fund

¹ See s. 112.63, F.S.

The West Palm Beach Firefighters Pension Fund was created by the Florida Legislature in 1947.² Each firefighter employed by the Fire Department of the City of West Palm Beach is a pension fund participant. The fund has 199 active members, 86 BackDROP participants, and 196 retirees and beneficiaries (including the BackDROP participants). The fund assets as of September 30, 2013, were \$164,579,552.³

Member Contribution Rates

The plan provides for member contributions at a rate of 25 percent from May 13, 2012, through September 30, 2013. During that period of time, chapter 175, F.S., premium tax funds were applied as member contributions to lower the actual employee contribution rate from 25 percent to 13.1 percent. Effective October 1, 2013, the employee contribution rate was lowered to 13.1 percent. Chapter 175, F.S., premium tax funds received after September 30, 2013, are allocated to employee share accounts.

Refund of Contribution

Currently, the fund provides for the refund of contributions, without interest, to members (or beneficiaries) who leave the employ of the department or die with less than 10 years of credited service, and are not eligible for a pension, disability pension, or beneficiary benefit. The act provides procedures for the refund of contributions to such members. The act does not provide for the refund of funds to members who leave the employ of the department with more than 10 years of credited service.

Distribution of Benefits Following the Death of a Member

A plan member’s spouse, children, or parents are entitled to certain benefits upon the death of a member under certain circumstances, including the following:

- The death of a member with five or more years of service, while in the employ of the service;
- The death of a member in the line of duty, regardless of years served; or
- The death of a retirant.

If a member dies under one of the applicable circumstances and leaves behind no spouse, children, or parents, the member’s remaining benefits, if any, pass to the member’s estate.

Rollovers from Qualified Plans

Members who accumulate sick leave, vacation leave, or any other accumulated leave payable upon separation must have the leave transferred to the fund up to the amounts permitted by law, with additional amounts paid directly to the member. Amounts transferred into the fund remain invested in the fund for a period of one year.

Actuarial Assumptions

Presently, the fund assumes an investment rate of return of 8.25 percent.

Effect of the Bill

Member Contribution Rates

The bill revises the member contribution schedule, extending the 25 percent member contribution rate through the end of Fiscal Year 2013-2014. The bill provides for the use of chapter 175, F.S., premium tax funds to lower the actual employee contribution rate in Fiscal Year 2013-2014 from 25 percent to 13.1 percent. The bill sets the required employee contribution rate to 13.1 percent effective October 1, 2014.

Under this bill, employee contributions to the pension fund are as follows:

Fiscal Period	Required Employee Contribution	Contribution from Premium Tax Fund	Actual Employee Contribution Rate
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² See, ch. 24981, L.O.F., 1947, as amended by ch. 2010-246, L.O.F.

³ March 18, 2013 email from Bonni S. Jensen, pension fund attorney.

May 13, 2012- Sept. 30, 2014 (Previously Sept. 30, 2013)	25%	11.9%	13.1%
Oct. 1, 2014 onward (Previously Oct. 1, 2013 onward)	13.1%	0%	13.1%

The bill clarifies that no amount of chapter 175, F.S., premium tax fund contributions are to be considered employee contributions for purposes of a refund of contributions. The bill clarifies that chapter 175, F.S., premium tax funds received after September 30, 2014, must be allocated to employee share accounts.

Refund of Contribution

The bill allows a member with over 10 years of credited service to request a refund of all contributions, without interest. A member that receives a refund forfeits all future benefits payable under the plan, including share account benefits.

Distribution of Benefits Following the Death of a Member

The bill revises the procedure for distribution of benefits following the death of:

- A plan member with five or more years of service, while in the employ of the service;
- A plan member in the line of duty, regardless of years served; or
- A retirant.

If such a member or retirant dies and leaves behind no eligible spouse, children, or parents, then the member or retirant’s remaining benefits must be paid to the member’s designated beneficiary, or in the event that no designated beneficiary exists, to the member’s estate.

The bill also clarifies that the spouse, children, parents, and other potential beneficiaries of vested deferred retiree members are eligible to receive the member’s remaining benefits upon their death.

Rollovers from Qualified Plans

Effective after May 13, 2012, the bill requires members to take a lump sum distribution of certain transferred leave amounts within six months after termination of employment. The bill clarifies that certain members who reached retirement age before May 13, 2012, or had an earlier BackDROP date, must leave their transferred leave in the fund for at least one year.

Actuarial Assumptions

The bill revises the assumed investment rate of return from 8.25 percent to 8 percent. The bill states that due to changes in other assumptions, the employer contribution may not increase, and no change is necessary to fund other formulas.

Collective Bargaining

The City of West Palm Beach and the International Association of Firefighters Local 727 have agreed in collective bargaining to these benefit and funding changes.

II. FISCAL ANALYSIS, ECONOMIC IMPACT STATEMENT, & NOTICE/REFERENDUM

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

According to the Economic Impact Statement, it is estimated that the City of West Palm Beach's costs for the fund will be reduced by \$1,647,968 in Fiscal Year 2014-2015.

C. ECONOMIC IMPACT STATEMENT FILED? Yes No

D. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 13, 2014

WHERE? *The Palm Beach Post*, a daily and Sunday newspaper published at West Palm Beach in Palm Beach County, Florida.

E. REFERENDUM(S) REQUIRED? Yes No