

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
 2 Representative Van Zant offered the following:

4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 175.061, Florida Statutes, is amended
 7 to read:

8 175.061 Board of trustees; members; terms of office;
 9 meetings; legal entity; costs; attorney's fees.—For any
 10 municipality, special fire control district, chapter plan, local
 11 law municipality, local law special fire control district, ~~or~~
 12 local law plan under this chapter, or local law plan created by
 13 special act before May 23, 1939:

14 (1) In each municipality and in each special fire control
 15 district there is hereby created a board of trustees of the
 16 firefighters' pension trust fund, which shall be solely

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17 responsible for administering the trust fund. Effective October
18 1, 1986, and thereafter:

19 (a) The membership of the board of trustees for a chapter
20 plan, whose members shall serve staggered terms, consists of
21 five members, two of whom, unless otherwise prohibited by law,
22 must be legal residents of the municipality or special fire
23 control district and must be appointed by the governing body of
24 the municipality or special fire control district, and two of
25 whom must be full-time firefighters as defined in s. 175.032 who
26 are elected by a majority of the active firefighters who are
27 members of such plan. With respect to any chapter plan or local
28 law plan that, on January 1, 1997, allowed retired firefighters
29 to vote in such elections, retirees may continue to vote in such
30 elections. The fifth member must not be a member, retiree,
31 beneficiary or payee of the pension plan and shall be chosen by
32 a majority of the previous four members as provided herein, and
33 such person's name shall be submitted to the governing body of
34 the municipality or special fire control district. Upon receipt
35 of the fifth person's name, the governing body of the
36 municipality or special fire control district shall, as a
37 ministerial duty, appoint such person to the board of trustees.
38 The fifth member shall have the same rights as each of the other
39 four members, shall serve as trustee for a period of 2 years,
40 and may succeed himself or herself in office. Each resident
41 member shall serve as trustee for a period of 2 years, unless
42 sooner replaced by the governing body at whose pleasure he or

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43 she serves, and may succeed himself or herself as a trustee.
44 Each firefighter member shall serve as trustee for a period of 2
45 years, unless he or she sooner leaves the employment of the
46 municipality or special fire control district as a firefighter,
47 whereupon a successor shall be chosen in the same manner as an
48 original appointment. Each firefighter may succeed himself or
49 herself in office. The terms of office of the appointed and
50 elected members may be amended by municipal ordinance, special
51 act of the Legislature, or resolution adopted by the governing
52 body of the special fire control district to extend the terms
53 from 2 years to 4 years. The length of the terms of office shall
54 be the same for all board members, and a board member may not
55 serve on the board for more than 8 consecutive years.

56 (b) The membership of boards of trustees for local law
57 plans shall be as follows:

58 1. If a municipality or special fire control district has
59 a pension plan for firefighters only, the provisions of
60 paragraph (a) apply.

61 2. If a municipality has a pension plan for firefighters
62 and police officers, the provisions of paragraph (a) apply,
63 except that in a municipality with a population of 800,000 or
64 more, the board of trustees shall consist of nine members, four
65 of whom shall be appointed by the governing body of the
66 municipality, two of whom ~~one member of the board~~ must be
67 firefighters ~~a firefighter~~ and two of whom ~~one member of the~~
68 board must be a police officers ~~officer~~ as defined in s. 185.02,

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69 respectively elected by a majority of the active firefighters or
70 police officers who are members of the plan.

71 3. A board of trustees operating a local law plan on July
72 1, 1999, which is combined with a plan for general employees
73 shall hold an election of the firefighters, or firefighters and
74 police officers, if included, to determine whether a plan is to
75 be established for firefighters only, or for firefighters and
76 police officers where included. Based on the election results, a
77 new board shall be established as provided in subparagraph 1. or
78 subparagraph 2., as appropriate. The municipality or fire
79 control district shall enact an ordinance or resolution to
80 implement the new board by October 1, 1999. The newly
81 established board shall take whatever action is necessary to
82 determine the amount of assets attributable to firefighters, or
83 firefighters and police officers where included. Such assets
84 include all employer, employee, and state contributions made by
85 or on behalf of firefighters, or firefighters and police
86 officers where included, and any investment income derived from
87 such contributions. All such moneys shall be transferred into
88 the newly established retirement plan, as directed by the board.

89
90 ~~With respect to a board of trustees operating a local law plan~~
91 ~~on June 30, 1986, this paragraph does not permit the reduction~~
92 ~~of the membership percentage of firefighters, or of firefighters~~
93 ~~and police officers where a joint or mixed fund exists. However,~~
94 ~~for the sole purpose of changing municipal representation, a~~

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95 ~~municipality may by ordinance change the municipal~~
96 ~~representation on the board of trustees operating a local law~~
97 ~~plan by ordinance, only if such change does not reduce the~~
98 ~~membership percentage of firefighters, or firefighters and~~
99 ~~police officers, or the membership percentage of the municipal~~
100 ~~representation.~~

101 (c) Whenever the active firefighter membership of a closed
102 chapter plan or closed local law plan as provided in s. 175.371
103 falls below 10, an active firefighter member seat may be held by
104 either a retired member or an active firefighter member of the
105 plan who is elected by the active and retired members of the
106 plan. If there are no active or retired firefighters remaining
107 in the plan or capable of serving, the remaining board members
108 may elect an individual to serve in the active firefighter seat.
109 Upon receipt of such person's name, the legislative body of the
110 municipality or special fire control district shall, as a
111 ministerial duty, appoint such person to the board of trustees.
112 This paragraph applies only to those plans that are closed to
113 new members under s. 175.371(2), and does not apply to any other
114 municipality or fire control district having a chapter or local
115 law plan.

116 (2) The trustees shall by a majority vote elect from their
117 number a chair and a secretary. The secretary of the board shall
118 keep a complete minute book of the actions, proceedings, or
119 hearings of the board. The trustees shall not receive any

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120 compensation as such, but may receive expenses and per diem as
121 provided by Florida law.

122 (3) The board of trustees shall meet at least quarterly
123 each year.

124 (4) Each board of trustees shall be a legal entity with,
125 in addition to other powers and responsibilities contained
126 herein, the power to bring and defend lawsuits of every kind,
127 nature, and description.

128 (5) In any judicial proceeding or administrative
129 proceeding under chapter 120 brought under or pursuant to the
130 provisions of this chapter, the prevailing party shall be
131 entitled to recover the costs thereof, together with reasonable
132 attorney's fees.

133 (6) The provisions of this section may not be altered by a
134 participating municipality or special fire control district
135 operating a chapter plan or local law plan under this chapter.

136 (7) The board of trustees may, upon written request of the
137 retiree of the plan, or by a dependent, if authorized by the
138 retiree or the retiree's beneficiary, authorize the plan
139 administrator to withhold from the monthly retirement payment
140 funds that are necessary to pay for the benefits being received
141 through the governmental entity from which the employee retired,
142 to pay the certified bargaining agent of the governmental
143 entity, and to make any payments for child support or alimony.
144 Upon the written request of the retiree of the plan, the board
145 may also authorize the plan administrator to withhold from the

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146 retirement payment those funds necessary to pay for premiums for
147 accident, health, and long-term care insurance for the retiree
148 and the retiree's spouse and dependents. A retirement plan does
149 not incur liability for participation in this permissive program
150 if its actions are taken in good faith.

151 (8) The board of trustees shall:

152 (a) Provide a detailed accounting report of its expenses
153 for each fiscal year to the plan sponsor and the Department of
154 Management Services and make the report available to each member
155 of the plan and post the report on the board's website if the
156 board has a website. The report must include, but need not be
157 limited to, all administrative expenses that, for purposes of
158 this subsection, are expenses relating to any legal counsel,
159 actuary, plan administrator, and all other consultants, and all
160 travel and other expenses paid to or on behalf of the members of
161 the board of trustees or anyone else on behalf of the plan.

162 (b) Operate under an administrative expense budget for
163 each fiscal year, provide a copy of the budget to the plan
164 sponsor, and make available a copy of the budget to plan members
165 before the beginning of the fiscal year. The administrative
166 expense budget must regulate the administrative expenses of the
167 board of trustees. If the board of trustees amends the
168 administrative expense budget, the board must provide a copy of
169 the amended budget to the plan sponsor and make available a copy
170 of the amended budget to plan members before the amendment takes
171 effect. The administrative expense budget, including any budget

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172 amendment, is not effective until the budget or budget amendment
173 is approved by a majority vote of the plan sponsor.

174 (c) Establish qualifications for the plan administrator.
175 At a minimum, the qualifications shall require that the
176 individual have a bachelor's or higher degree in a finance-
177 related field from an accredited college or university, have at
178 least 3 years of professional experience managing retirement
179 plans in the private or public sector, and be approved by a
180 majority plus one vote of the plan sponsor.

181 (9) Notwithstanding s. 175.351(2) and (3), a local law
182 plan created by special act before May 23, 1939, must comply
183 with this section.

184 (10) The governing body of a municipality may terminate a
185 plan administrator's pension or retirement plan if any provision
186 of such pension or retirement plan is found unlawful by a court
187 of competent jurisdiction.

188 Section 2. Subsection (6) is added to section 175.351,
189 Florida Statutes, to read:

190 175.351 Municipalities and special fire control districts
191 having their own pension plans for firefighters.—For any
192 municipality, special fire control district, local law
193 municipality, local law special fire control district, or local
194 law plan under this chapter, in order for municipalities and
195 special fire control districts with their own pension plans for
196 firefighters, or for firefighters and police officers if
197 included, to participate in the distribution of the tax fund

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198 established pursuant to s. 175.101, local law plans must meet
199 the minimum benefits and minimum standards set forth in this
200 chapter.

201 (6) (a) A municipality having its own pension plan that has
202 an assets-to-liabilities ratio, using the most recent plan
203 actuarial report, of 75 percent or less, shall, every 3 years,
204 conduct an internal audit of the plan's management and
205 accounting practices and investments. The audit shall be paid
206 for by the board of trustees of the pension trust fund. The
207 results of the audit shall be provided to the municipality and
208 the Department of Management Services.

209 (b) Notwithstanding subsections (2) and (3), a local law
210 plan created by special act before May 23, 1939, must comply
211 with this subsection.

212 Section 3. Section 185.05, Florida Statutes, is amended to
213 read:

214 185.05 Board of trustees; members; terms of office;
215 meetings; legal entity; costs; attorney's fees.—For any
216 municipality, chapter plan, local law municipality, ~~or~~ local law
217 plan under this chapter, or a local law plan created by special
218 act before May 23 1939:

219 (1) In each municipality described in s. 185.03 there is
220 hereby created a board of trustees of the municipal police
221 officers' retirement trust fund, which shall be solely
222 responsible for administering the trust fund. Effective October
223 1, 1986, and thereafter:

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224 (a) The membership of the board of trustees for chapter
225 plans, whose members shall serve staggered terms, consists of
226 five members, two of whom, unless otherwise prohibited by law,
227 must be legal residents of the municipality and must be
228 appointed by the legislative body of the municipality, and two
229 of whom must be police officers as defined in s. 185.02 who are
230 elected by a majority of the active police officers who are
231 members of such plan. With respect to any chapter plan or local
232 law plan that, on January 1, 1997, allowed retired police
233 officers to vote in such elections, retirees may continue to
234 vote in such elections. The fifth member must not be a member,
235 retiree, beneficiary or payee of such plan and shall be chosen
236 by a majority of the previous four members, and such person's
237 name shall be submitted to the legislative body of the
238 municipality. Upon receipt of the fifth person's name, the
239 legislative body shall, as a ministerial duty, appoint such
240 person to the board of trustees. The fifth member shall have the
241 same rights as each of the other four members appointed or
242 elected, shall serve as trustee for a period of 2 years, and may
243 succeed himself or herself in office. Each resident member shall
244 serve as trustee for a period of 2 years, unless sooner replaced
245 by the legislative body at whose pleasure the member serves, and
246 may succeed himself or herself as a trustee. Each police officer
247 member shall serve as trustee for a period of 2 years, unless he
248 or she sooner leaves the employment of the municipality as a
249 police officer, whereupon a successor shall be chosen in the

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250 same manner as an original appointment. Each police officer may
251 succeed himself or herself in office. The terms of office of the
252 appointed and elected members of the board of trustees may be
253 amended by municipal ordinance or special act of the Legislature
254 to extend the terms from 2 years to 4 years. The length of the
255 terms of office shall be the same for all board members, and a
256 board member may not serve on the board for more than 8
257 consecutive years.

258 (b) The membership of boards of trustees for local law
259 plans is as follows:

260 1. If a municipality has a pension plan for police
261 officers only, the provisions of paragraph (a) shall apply.

262 2. If a municipality has a pension plan for police
263 officers and firefighters, the provisions of paragraph (a)
264 apply, except that in a municipality with a population of
265 800,000 or more, the board of trustees shall consist of nine
266 members, four of whom shall be appointed by the governing body
267 of the municipality, two of whom ~~one member of the board~~ shall
268 be ~~police officers,~~ a ~~police officer~~ and two of whom ~~one member~~
269 shall be ~~firefighters~~ a ~~firefighter~~ as defined in s. 175.032,
270 respectively, elected by a majority of the active firefighters
271 and police officers who are members of the plan.

272 3. Any board of trustees operating a local law plan on
273 July 1, 1999, which is combined with a plan for general
274 employees shall hold an election of the police officers, or
275 police officers and firefighters if included, to determine

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276 whether a plan is to be established for police officers only, or
277 for police officers and firefighters where included. Based on
278 the election results, a new board shall be established as
279 provided in subparagraph 1. or subparagraph 2., as appropriate.
280 The municipality shall enact an ordinance to implement the new
281 board by October 1, 1999. The newly established board shall take
282 whatever action is necessary to determine the amount of assets
283 which is attributable to police officers, or police officers and
284 firefighters where included. Such assets shall include all
285 employer, employee, and state contributions made by or on behalf
286 of police officers, or police officers and firefighters where
287 included, and any investment income derived from such
288 contributions. All such moneys shall be transferred into the
289 newly established retirement plan, as directed by the board.

290
291 ~~With respect to any board of trustees operating a local law plan~~
292 ~~on June 30, 1986, this paragraph does not permit the reduction~~
293 ~~of the membership percentage of police officers or police~~
294 ~~officers and firefighters. However, for the sole purpose of~~
295 ~~changing municipal representation, a municipality may by~~
296 ~~ordinance change the municipal representation on the board of~~
297 ~~trustees operating a local law plan by ordinance, only if such~~
298 ~~change does not reduce the membership percentage of police~~
299 ~~officers, or police officers and firefighters, or the membership~~
300 ~~percentage of the municipal representation.~~

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301 (c) Whenever the active police officer membership of a
302 closed chapter plan or closed local law plan as provided in s.
303 185.38 falls below 10, an active police officer member seat may
304 be held by either a retired police officer or an active police
305 officer member of the plan who is elected by the active and
306 retired members of the plan. If there are no active or retired
307 police officers remaining in the plan or capable of serving, the
308 remaining board members may elect an individual to serve in the
309 active police officer member seat. Upon receipt of such person's
310 name, the legislative body of the municipality shall, as a
311 ministerial duty, appoint such person to the board of trustees.
312 This paragraph applies only to those plans that are closed to
313 new members under s. 185.38(2), and does not apply to any other
314 municipality having a chapter or local law plan.

315 (d) If the chapter plan or local law plan with an active
316 membership of 10 or more is closed to new members, the member
317 seats may be held by either a retiree, as defined in s. 185.02,
318 or an active police officer of the plan who has been elected by
319 the active police officers. A closed plan means a plan that is
320 closed to new members but continues to operate, pursuant to s.
321 185.38(2), for participants who elect to remain in the existing
322 plan. This paragraph applies only to those plans that are closed
323 to new members pursuant to s. 185.38(2) and does not apply to
324 any other municipality that has a chapter plan or a local law
325 plan.

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326 (2) The trustees shall by majority vote elect from its
327 members a chair and a secretary. The secretary of the board
328 shall keep a complete minute book of the actions, proceedings,
329 or hearings of the board. The trustees shall not receive any
330 compensation as such, but may receive expenses and per diem as
331 provided by Florida law.

332 (3) The board of trustees shall meet at least quarterly
333 each year.

334 (4) Each board of trustees shall be a legal entity that
335 shall have, in addition to other powers and responsibilities
336 contained herein, the power to bring and defend lawsuits of
337 every kind, nature, and description.

338 (5) In any judicial proceeding or administrative
339 proceeding under chapter 120 brought under or pursuant to the
340 provisions of this chapter, the prevailing party shall be
341 entitled to recover the costs thereof, together with reasonable
342 attorney's fees.

343 (6) The board of trustees may, upon written request by the
344 retiree of the plan, or by a dependent, if authorized by the
345 retiree or the retiree's beneficiary, authorize the plan
346 administrator to withhold from the monthly retirement payment
347 funds necessary to pay for the benefits being received through
348 the governmental entity from which the employee retired, to pay
349 the certified bargaining agent of the governmental entity, and
350 to make any payments for child support or alimony. Upon the
351 written request of the retiree of the plan, the board of

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352 trustees may also authorize the plan administrator to withhold
353 from the retirement payment those funds necessary to pay for
354 premiums for accident, health, and long-term care insurance for
355 the retiree and the retiree's spouse and dependents. A
356 retirement plan does not incur liability for participation in
357 this permissive program if its actions are taken in good faith.

358 (7) The provisions of this section may not be altered by a
359 participating municipality operating a chapter or local law plan
360 under this chapter.

361 (8) The board of trustees shall:

362 (a) Provide a detailed accounting report of its expenses
363 for each fiscal year to the plan sponsor and the Department of
364 Management Services and make the report available to each member
365 of the plan and post the report on the board's website if the
366 board has a website. The report must include, but need not be
367 limited to, all administrative expenses that, for purposes of
368 this subsection, are expenses relating to any legal counsel,
369 actuary, plan administrator, and all other consultants, and all
370 travel and other expenses paid to or on behalf of the members of
371 the board of trustees or anyone else on behalf of the plan.

372 (b) Operate under an administrative expense budget for
373 each fiscal year, provide a copy of the budget to the plan
374 sponsor, and make available a copy of the budget to plan members
375 before the beginning of the fiscal year. The administrative
376 expense budget must regulate the administrative expenses of the
377 board of trustees. If the board of trustees amends the

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378 administrative expense budget, the board must provide a copy of
379 the amended budget to the plan sponsor and make available a copy
380 of the amended budget to plan members before the amendment takes
381 effect. The administrative expense budget, including any budget
382 amendment, is not effective until the budget or budget amendment
383 is approved by a majority vote of the plan sponsor.

384 (c) Establish qualifications for the plan administrator.
385 At a minimum, the qualifications shall require that the
386 individual have a bachelor's or higher degree in a finance-
387 related field from an accredited college or university, have at
388 least 3 years of professional experience managing retirement
389 plans in the private or public sector, and be approved by a
390 majority plus one vote of the plan sponsor.

391 (9) Notwithstanding s. 185.35(2) and (3), a local law plan
392 created by special act before May 23, 1939, must comply with
393 this section.

394 (10) The governing body of a municipality may terminate a
395 plan administrator's pension or retirement plan if any provision
396 of such pension or retirement plan is found unlawful by a court
397 of competent jurisdiction.

398 Section 4. Subsection (6) is added to section 185.35,
399 Florida Statutes, to read:

400 185.35 Municipalities having their own pension plans for
401 police officers.—For any municipality, chapter plan, local law
402 municipality, or local law plan under this chapter, in order for
403 municipalities with their own pension plans for police officers,

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404 or for police officers and firefighters if included, to
405 participate in the distribution of the tax fund established
406 pursuant to s. 185.08, local law plans must meet the minimum
407 benefits and minimum standards set forth in this chapter:

408 (6) (a) A municipality having its own pension plan that has
409 an assets-to-liabilities ratio, using the most recent plan
410 actuarial report, of 75 percent or less, shall, every 3 years,
411 conduct an internal audit of the plan's management and
412 accounting practices and investments. The audit shall be paid
413 for by the board of trustees of the pension trust fund. The
414 results of the audit shall be provided to the municipality and
415 the Department of Management Services.

416 (b) Notwithstanding subsections (2) and (3), a local law
417 plan created by special act before May 23, 1939, must comply
418 with this section.

419 Section 5. The Legislature finds that a proper and
420 legitimate state purpose is served when employees and retirees
421 of the state and its political subdivisions, and the dependents,
422 survivors, and beneficiaries of such employees and retirees, are
423 extended the basic protections afforded by governmental
424 retirement systems that provide fair and adequate benefits and
425 that are managed, administered, and funded in an actuarially
426 sound manner as required by s. 14, Article X of the State
427 Constitution and part VII of chapter 112, Florida Statutes.
428 Therefore, the Legislature determines and declares that this act
429 fulfills an important state interest.

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430 Section 6. This act shall take effect July 1, 2015.

431 -----
432

433 **T I T L E A M E N D M E N T**

434 Remove everything before the enacting clause and insert:

435 A bill to be entitled

436 An act relating to retirement; amending ss. 175.061
437 and 185.05, F.S.; providing applicability; revising
438 membership and requirements for the board of trustees
439 of the firefighters' pension trust fund and the
440 municipal police officers' retirement trust fund;
441 providing duties of the board relating to the
442 reporting of expenses, the operation under an
443 administrative expense budget, and the establishment
444 of requirements for the plan administrator;
445 authorizing the governing body of a municipality to
446 terminate a plan administrator's pension or retirement
447 plan under certain conditions; amending ss. 175.351
448 and 185.35, F.S., relating to municipalities and
449 special fire control districts that have their own
450 pension plans and want to participate in the
451 distribution of a tax fund; providing requirements for
452 municipalities with plans with an unfunded liability;
453 providing applicability; providing a declaration of
454 important state interest; providing an effective date.