

1 A bill to be entitled

2 An act relating to retirement; amending ss. 175.061
3 and 185.05, F.S.; providing applicability; revising
4 membership and requirements for the board of trustees
5 of the firefighters' pension trust fund and the
6 municipal police officers' retirement trust fund;
7 providing duties of the board relating to the
8 reporting of expenses, the operation under an
9 administrative expense budget, and the establishment
10 of requirements for the plan administrator;
11 authorizing the governing body of a municipality to
12 terminate a plan administrator's pension or retirement
13 plan under certain conditions; amending ss. 175.351
14 and 185.35, F.S., relating to municipalities and
15 special fire control districts that have their own
16 pension plans and want to participate in the
17 distribution of a tax fund; providing requirements for
18 municipalities with plans with an unfunded liability;
19 providing applicability; providing a declaration of
20 important state interest; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 175.061, Florida Statutes, is amended
25 to read:

26 175.061 Board of trustees; members; terms of office;

27 meetings; legal entity; costs; attorney's fees.—For any
 28 municipality, special fire control district, chapter plan, local
 29 law municipality, local law special fire control district, ~~or~~
 30 local law plan under this chapter, or local law plan created by
 31 special act before May 23, 1939:

32 (1) In each municipality and in each special fire control
 33 district there is hereby created a board of trustees of the
 34 firefighters' pension trust fund, which shall be solely
 35 responsible for administering the trust fund. Effective October
 36 1, 1986, and thereafter:

37 (a) The membership of the board of trustees for a chapter
 38 plan, whose members shall serve staggered terms, consists of
 39 five members, two of whom, unless otherwise prohibited by law,
 40 must be legal residents of the municipality or special fire
 41 control district and must be appointed by the governing body of
 42 the municipality or special fire control district, and two of
 43 whom must be full-time firefighters as defined in s. 175.032 who
 44 are elected by a majority of the active firefighters who are
 45 members of such plan. With respect to any chapter plan or local
 46 law plan that, on January 1, 1997, allowed retired firefighters
 47 to vote in such elections, retirees may continue to vote in such
 48 elections. The fifth member must not be a member, retiree,
 49 beneficiary, or payee of the pension plan and shall be chosen by
 50 a majority of the previous four members as provided herein, and
 51 such person's name shall be submitted to the governing body of
 52 the municipality or special fire control district. Upon receipt

53 of the fifth person's name, the governing body of the
54 municipality or special fire control district shall, as a
55 ministerial duty, appoint such person to the board of trustees.
56 The fifth member shall have the same rights as each of the other
57 four members, shall serve as trustee for a period of 2 years,
58 and may succeed himself or herself in office. Each resident
59 member shall serve as trustee for a period of 2 years, unless
60 sooner replaced by the governing body at whose pleasure he or
61 she serves, and may succeed himself or herself as a trustee.
62 Each firefighter member shall serve as trustee for a period of 2
63 years, unless he or she sooner leaves the employment of the
64 municipality or special fire control district as a firefighter,
65 whereupon a successor shall be chosen in the same manner as an
66 original appointment. Each firefighter may succeed himself or
67 herself in office. The terms of office of the appointed and
68 elected members may be amended by municipal ordinance, special
69 act of the Legislature, or resolution adopted by the governing
70 body of the special fire control district to extend the terms
71 from 2 years to 4 years. The length of the terms of office shall
72 be the same for all board members, and a board member may not
73 serve on the board for more than 8 consecutive years.

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

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

79 2. If a municipality has a pension plan for firefighters
80 and police officers, the provisions of paragraph (a) apply,
81 except that in a municipality with a population of 800,000 or
82 more, the board of trustees shall consist of nine members, four
83 of whom shall be appointed by the governing body of the
84 municipality, two of whom ~~one member of the board~~ must be
85 firefighters ~~a firefighter~~ and two of whom ~~one member of the~~
86 ~~board~~ must be a police officers ~~officer~~ as defined in s. 185.02,
87 respectively elected by a majority of the active firefighters or
88 police officers who are members of the plan.

89 3. A board of trustees operating a local law plan on July
90 1, 1999, which is combined with a plan for general employees
91 shall hold an election of the firefighters, or firefighters and
92 police officers, if included, to determine whether a plan is to
93 be established for firefighters only, or for firefighters and
94 police officers where included. Based on the election results, a
95 new board shall be established as provided in subparagraph 1. or
96 subparagraph 2., as appropriate. The municipality or fire
97 control district shall enact an ordinance or resolution to
98 implement the new board by October 1, 1999. The newly
99 established board shall take whatever action is necessary to
100 determine the amount of assets attributable to firefighters, or
101 firefighters and police officers where included. Such assets
102 include all employer, employee, and state contributions made by
103 or on behalf of firefighters, or firefighters and police
104 officers where included, and any investment income derived from

105 such contributions. All such moneys shall be transferred into
106 the newly established retirement plan, as directed by the board.

107
108 ~~With respect to a board of trustees operating a local law plan~~
109 ~~on June 30, 1986, this paragraph does not permit the reduction~~
110 ~~of the membership percentage of firefighters, or of firefighters~~
111 ~~and police officers where a joint or mixed fund exists. However,~~
112 ~~for the sole purpose of changing municipal representation, a~~
113 ~~municipality may by ordinance change the municipal~~
114 ~~representation on the board of trustees operating a local law~~
115 ~~plan by ordinance, only if such change does not reduce the~~
116 ~~membership percentage of firefighters, or firefighters and~~
117 ~~police officers, or the membership percentage of the municipal~~
118 ~~representation.~~

119 (c) Whenever the active firefighter membership of a closed
120 chapter plan or closed local law plan as provided in s. 175.371
121 falls below 10, an active firefighter member seat may be held by
122 either a retired member or an active firefighter member of the
123 plan who is elected by the active and retired members of the
124 plan. If there are no active or retired firefighters remaining
125 in the plan or capable of serving, the remaining board members
126 may elect an individual to serve in the active firefighter seat.
127 Upon receipt of such person's name, the legislative body of the
128 municipality or special fire control district shall, as a
129 ministerial duty, appoint such person to the board of trustees.
130 This paragraph applies only to those plans that are closed to

131 new members under s. 175.371(2), and does not apply to any other
132 municipality or fire control district having a chapter or local
133 law plan.

134 (2) The trustees shall by a majority vote elect from their
135 number a chair and a secretary. The secretary of the board shall
136 keep a complete minute book of the actions, proceedings, or
137 hearings of the board. The trustees shall not receive any
138 compensation as such, but may receive expenses and per diem as
139 provided by Florida law.

140 (3) The board of trustees shall meet at least quarterly
141 each year.

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

146 (5) In any judicial proceeding or administrative
147 proceeding under chapter 120 brought under or pursuant to the
148 provisions of this chapter, the prevailing party shall be
149 entitled to recover the costs thereof, together with reasonable
150 attorney's fees.

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

154 (7) The board of trustees may, upon written request of the
155 retiree of the plan, or by a dependent, if authorized by the
156 retiree or the retiree's beneficiary, authorize the plan

157 administrator to withhold from the monthly retirement payment
158 funds that are necessary to pay for the benefits being received
159 through the governmental entity from which the employee retired,
160 to pay the certified bargaining agent of the governmental
161 entity, and to make any payments for child support or alimony.
162 Upon the written request of the retiree of the plan, the board
163 may also authorize the plan administrator to withhold from the
164 retirement payment those funds necessary to pay for premiums for
165 accident, health, and long-term care insurance for the retiree
166 and the retiree's spouse and dependents. A retirement plan does
167 not incur liability for participation in this permissive program
168 if its actions are taken in good faith.

169 (8) The board of trustees shall:

170 (a) Provide a detailed accounting report of its expenses
171 for each fiscal year to the plan sponsor and the Department of
172 Management Services and make the report available to each member
173 of the plan and post the report on the board's website, if the
174 board has a website. The report must include, but need not be
175 limited to, all administrative expenses that, for purposes of
176 this subsection, are expenses relating to any legal counsel,
177 actuary, plan administrator, and all other consultants, and all
178 travel and other expenses paid to or on behalf of the members of
179 the board of trustees or anyone else on behalf of the plan.

180 (b) Operate under an administrative expense budget for
181 each fiscal year, provide a copy of the budget to the plan
182 sponsor, and make available a copy of the budget to plan members

183 before the beginning of the fiscal year. The administrative
184 expense budget must regulate the administrative expenses of the
185 board of trustees. If the board of trustees amends the
186 administrative expense budget, the board must provide a copy of
187 the amended budget to the plan sponsor and make available a copy
188 of the amended budget to plan members before the amendment takes
189 effect. The administrative expense budget, including any budget
190 amendment, is not effective until the budget or budget amendment
191 is approved by a majority vote of the plan sponsor.

192 (c) Establish qualifications for the plan administrator.
193 At a minimum, the qualifications shall require that the
194 individual have a bachelor's or higher degree from an accredited
195 college or university, have at least 3 years of professional
196 experience managing retirement plans in the private or public
197 sector, and be approved by a majority plus one vote of the plan
198 sponsor.

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

202 (10) The governing body of a municipality may terminate a
203 plan administrator's pension or retirement plan if any provision
204 of such pension or retirement plan is found unlawful by a court
205 of competent jurisdiction.

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

208 175.351 Municipalities and special fire control districts

209 | having their own pension plans for firefighters.—For any
 210 | municipality, special fire control district, local law
 211 | municipality, local law special fire control district, or local
 212 | law plan under this chapter, in order for municipalities and
 213 | special fire control districts with their own pension plans for
 214 | firefighters, or for firefighters and police officers if
 215 | included, to participate in the distribution of the tax fund
 216 | established pursuant to s. 175.101, local law plans must meet
 217 | the minimum benefits and minimum standards set forth in this
 218 | chapter.

219 | (6) (a) A municipality having its own pension plan that has
 220 | an assets-to-liabilities ratio, using the most recent plan
 221 | actuarial report, of 75 percent or less, shall, every 3 years,
 222 | conduct an internal audit of the plan's management and
 223 | accounting practices and investments. The audit shall be paid
 224 | for by the board of trustees of the pension trust fund. The
 225 | results of the audit shall be provided to the municipality and
 226 | the Department of Management Services.

227 | (b) Notwithstanding subsections (2) and (3), a local law
 228 | plan created by special act before May 23, 1939, must comply
 229 | with this subsection.

230 | Section 3. Section 185.05, Florida Statutes, is amended to
 231 | read:

232 | 185.05 Board of trustees; members; terms of office;
 233 | meetings; legal entity; costs; attorney's fees.—For any
 234 | municipality, chapter plan, local law municipality, ~~or~~ local law

235 plan under this chapter, or a local law plan created by special
236 act before May 23 1939:

237 (1) In each municipality described in s. 185.03 there is
238 hereby created a board of trustees of the municipal police
239 officers' retirement trust fund, which shall be solely
240 responsible for administering the trust fund. Effective October
241 1, 1986, and thereafter:

242 (a) The membership of the board of trustees for chapter
243 plans, whose members shall serve staggered terms, consists of
244 five members, two of whom, unless otherwise prohibited by law,
245 must be legal residents of the municipality and must be
246 appointed by the legislative body of the municipality, and two
247 of whom must be police officers as defined in s. 185.02 who are
248 elected by a majority of the active police officers who are
249 members of such plan. With respect to any chapter plan or local
250 law plan that, on January 1, 1997, allowed retired police
251 officers to vote in such elections, retirees may continue to
252 vote in such elections. The fifth member must not be a member,
253 retiree, beneficiary, or payee of such plan and shall be chosen
254 by a majority of the previous four members, and such person's
255 name shall be submitted to the legislative body of the
256 municipality. Upon receipt of the fifth person's name, the
257 legislative body shall, as a ministerial duty, appoint such
258 person to the board of trustees. The fifth member shall have the
259 same rights as each of the other four members appointed or
260 elected, shall serve as trustee for a period of 2 years, and may

261 succeed himself or herself in office. Each resident member shall
 262 serve as trustee for a period of 2 years, unless sooner replaced
 263 by the legislative body at whose pleasure the member serves, and
 264 may succeed himself or herself as a trustee. Each police officer
 265 member shall serve as trustee for a period of 2 years, unless he
 266 or she sooner leaves the employment of the municipality as a
 267 police officer, whereupon a successor shall be chosen in the
 268 same manner as an original appointment. Each police officer may
 269 succeed himself or herself in office. The terms of office of the
 270 appointed and elected members of the board of trustees may be
 271 amended by municipal ordinance or special act of the Legislature
 272 to extend the terms from 2 years to 4 years. The length of the
 273 terms of office shall be the same for all board members, and a
 274 board member may not serve on the board for more than 8
 275 consecutive years.

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

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

280 2. If a municipality has a pension plan for police
 281 officers and firefighters, the provisions of paragraph (a)
 282 apply, except that in a municipality with a population of
 283 800,000 or more, the board of trustees shall consist of nine
 284 members, four of whom shall be appointed by the governing body
 285 of the municipality, two of whom ~~one member of the board~~ shall
 286 be police officers, a police officer and two of whom ~~one member~~

287 shall be firefighters ~~a firefighter~~ as defined in s. 175.032,
288 respectively, elected by a majority of the active firefighters
289 and police officers who are members of the plan.

290 3. Any board of trustees operating a local law plan on
291 July 1, 1999, which is combined with a plan for general
292 employees shall hold an election of the police officers, or
293 police officers and firefighters if included, to determine
294 whether a plan is to be established for police officers only, or
295 for police officers and firefighters where included. Based on
296 the election results, a new board shall be established as
297 provided in subparagraph 1. or subparagraph 2., as appropriate.
298 The municipality shall enact an ordinance to implement the new
299 board by October 1, 1999. The newly established board shall take
300 whatever action is necessary to determine the amount of assets
301 which is attributable to police officers, or police officers and
302 firefighters where included. Such assets shall include all
303 employer, employee, and state contributions made by or on behalf
304 of police officers, or police officers and firefighters where
305 included, and any investment income derived from such
306 contributions. All such moneys shall be transferred into the
307 newly established retirement plan, as directed by the board.

308
309 ~~With respect to any board of trustees operating a local law plan~~
310 ~~on June 30, 1986, this paragraph does not permit the reduction~~
311 ~~of the membership percentage of police officers or police~~
312 ~~officers and firefighters. However, for the sole purpose of~~

313 ~~changing municipal representation, a municipality may by~~
314 ~~ordinance change the municipal representation on the board of~~
315 ~~trustees operating a local law plan by ordinance, only if such~~
316 ~~change does not reduce the membership percentage of police~~
317 ~~officers, or police officers and firefighters, or the membership~~
318 ~~percentage of the municipal representation.~~

319 (c) Whenever the active police officer membership of a
320 closed chapter plan or closed local law plan as provided in s.
321 185.38 falls below 10, an active police officer member seat may
322 be held by either a retired police officer or an active police
323 officer member of the plan who is elected by the active and
324 retired members of the plan. If there are no active or retired
325 police officers remaining in the plan or capable of serving, the
326 remaining board members may elect an individual to serve in the
327 active police officer member seat. Upon receipt of such person's
328 name, the legislative body of the municipality shall, as a
329 ministerial duty, appoint such person to the board of trustees.
330 This paragraph applies only to those plans that are closed to
331 new members under s. 185.38(2), and does not apply to any other
332 municipality having a chapter or local law plan.

333 (d) If the chapter plan or local law plan with an active
334 membership of 10 or more is closed to new members, the member
335 seats may be held by either a retiree, as defined in s. 185.02,
336 or an active police officer of the plan who has been elected by
337 the active police officers. A closed plan means a plan that is
338 closed to new members but continues to operate, pursuant to s.

339 185.38(2), for participants who elect to remain in the existing
340 plan. This paragraph applies only to those plans that are closed
341 to new members pursuant to s. 185.38(2) and does not apply to
342 any other municipality that has a chapter plan or a local law
343 plan.

344 (2) The trustees shall by majority vote elect from its
345 members a chair and a secretary. The secretary of the board
346 shall keep a complete minute book of the actions, proceedings,
347 or hearings of the board. The trustees shall not receive any
348 compensation as such, but may receive expenses and per diem as
349 provided by Florida law.

350 (3) The board of trustees shall meet at least quarterly
351 each year.

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

356 (5) In any judicial proceeding or administrative
357 proceeding under chapter 120 brought under or pursuant to the
358 provisions of this chapter, the prevailing party shall be
359 entitled to recover the costs thereof, together with reasonable
360 attorney's fees.

361 (6) The board of trustees may, upon written request by the
362 retiree of the plan, or by a dependent, if authorized by the
363 retiree or the retiree's beneficiary, authorize the plan
364 administrator to withhold from the monthly retirement payment

365 funds necessary to pay for the benefits being received through
366 the governmental entity from which the employee retired, to pay
367 the certified bargaining agent of the governmental entity, and
368 to make any payments for child support or alimony. Upon the
369 written request of the retiree of the plan, the board of
370 trustees may also authorize the plan administrator to withhold
371 from the retirement payment those funds necessary to pay for
372 premiums for accident, health, and long-term care insurance for
373 the retiree and the retiree's spouse and dependents. A
374 retirement plan does not incur liability for participation in
375 this permissive program if its actions are taken in good faith.

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

379 (8) The board of trustees shall:

380 (a) Provide a detailed accounting report of its expenses
381 for each fiscal year to the plan sponsor and the Department of
382 Management Services and make the report available to each member
383 of the plan and post the report on the board's website, if the
384 board has a website. The report must include, but need not be
385 limited to, all administrative expenses that, for purposes of
386 this subsection, are expenses relating to any legal counsel,
387 actuary, plan administrator, and all other consultants, and all
388 travel and other expenses paid to or on behalf of the members of
389 the board of trustees or anyone else on behalf of the plan.

390 (b) Operate under an administrative expense budget for

391 each fiscal year, provide a copy of the budget to the plan
392 sponsor, and make available a copy of the budget to plan members
393 before the beginning of the fiscal year. The administrative
394 expense budget must regulate the administrative expenses of the
395 board of trustees. If the board of trustees amends the
396 administrative expense budget, the board must provide a copy of
397 the amended budget to the plan sponsor and make available a copy
398 of the amended budget to plan members before the amendment takes
399 effect. The administrative expense budget, including any budget
400 amendment, is not effective until the budget or budget amendment
401 is approved by a majority vote of the plan sponsor.

402 (c) Establish qualifications for the plan administrator.
403 At a minimum, the qualifications shall require that the
404 individual have a bachelor's or higher degree from an accredited
405 college or university, have at least 3 years of professional
406 experience managing retirement plans in the private or public
407 sector, and be approved by a majority plus one vote of the plan
408 sponsor.

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

412 (10) The governing body of a municipality may terminate a
413 plan administrator's pension or retirement plan if any provision
414 of such pension or retirement plan is found unlawful by a court
415 of competent jurisdiction.

416 Section 4. Subsection (6) is added to section 185.35,

417 Florida Statutes, to read:

418 185.35 Municipalities having their own pension plans for
419 police officers.—For any municipality, chapter plan, local law
420 municipality, or local law plan under this chapter, in order for
421 municipalities with their own pension plans for police officers,
422 or for police officers and firefighters if included, to
423 participate in the distribution of the tax fund established
424 pursuant to s. 185.08, local law plans must meet the minimum
425 benefits and minimum standards set forth in this chapter:

426 (6) (a) A municipality having its own pension plan that has
427 an assets-to-liabilities ratio, using the most recent plan
428 actuarial report, of 75 percent or less, shall, every 3 years,
429 conduct an internal audit of the plan's management and
430 accounting practices and investments. The audit shall be paid
431 for by the board of trustees of the pension trust fund. The
432 results of the audit shall be provided to the municipality and
433 the Department of Management Services.

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

437 Section 5. The Legislature finds that a proper and
438 legitimate state purpose is served when employees and retirees
439 of the state and its political subdivisions, and the dependents,
440 survivors, and beneficiaries of such employees and retirees, are
441 extended the basic protections afforded by governmental
442 retirement systems that provide fair and adequate benefits and

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443 that are managed, administered, and funded in an actuarially
444 sound manner as required by s. 14, Article X of the State
445 Constitution and part VII of chapter 112, Florida Statutes.
446 Therefore, the Legislature determines and declares that this act
447 fulfills an important state interest.

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