

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1139 City Pension Fund for Firefighters and Police Officers in the City of Tampa, Hillsborough County

SPONSOR(S): Cruz and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	8 Y, 0 N	Darden	Miller
2) Oversight, Transparency & Administration Subcommittee	11 Y, 0 N	Harrington	Harrington
3) Government Accountability Committee	19 Y, 0 N	Darden	Williamson

SUMMARY ANALYSIS

The Firefighters and Police Pension Fund (Fund) for the City of Tampa was created by special act in 1933. As of September 30, 2017, the Fund had 1,388 active members, 1,908 retired members, and 186 members in the Deferred Retirement Option Plan. As of October 1, 2016, the Fund had \$1,103,569,405 in total assets and \$17,056,352 in unfunded actuarial accrued liability.

The bill authorizes the City of Tampa to enter into a supplemental contract with every firefighter or police officer who is an active member of the Fund for the City of Tampa, or who enters into a pension contract with the city, on or after the date this act becomes a law. In addition, the bill provides for an increased benefit for the widows of firefighters and officers who die in the line of duty. The bill adjusts benefits for the children of firefighters and officers who died in the line of duty to reflect this increase. The changes to the pension contract in this act must be made available in a supplemental pension contract to every active firefighter and police officer. In addition, any person who becomes a member of the Fund on or after the date the bill becomes law must sign a pension contract that includes the provisions of this act as a condition of membership in the Fund. The bill also states that provisions of the bill are severable.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Protection of Public Employee Retirement Benefits Act

Part VII of chapter 112, F.S., the Florida Protection of Public Employee Retirement Benefits Act (act), was adopted by the Legislature to implement the provisions of s. 14, Art. X of the Florida Constitution. The act establishes minimum standards for operating and funding public employee retirement systems and plans. It applies to all units of state, county, special district, and municipal governments participating in, operating, or administering a retirement system for public employees, which is funded in whole or in part by public funds.¹ Responsibility for administration of the act is assigned primarily to the Division of Retirement (division), Department of Management Services (DMS).

The Florida Constitution prohibits any increase in retirement or pension benefits for a publicly funded plan, unless the increase has made or concurrently makes provision for funding the increase on an actuarially sound basis.² Local governments are prohibited from agreeing to a proposed change in retirement benefits if the plan administrator did not issue a statement of actuarial impact of the proposed change before both the adoption of the change by the governing body of the local government and the last public hearing about the proposed change.³ This statement also must be furnished to the division before the local government can agree to the change.⁴ The statement must indicate whether the proposed change complies with s. 14, Art. X of the Florida Constitution and with s. 112.64, F.S. (concerning the administration of pension funds and the amortization of any unfunded actuarial liability).⁵

Municipal Firefighter and Police Pensions

Chapters 175 and 185, F.S., provide the statutory authority for municipal and special fire control district firefighter pensions and municipal police pensions. These laws were enacted to provide a “uniform retirement system” providing defined benefit plans for firefighters and police officers, and setting standards for operation and funding of these systems. 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.⁶ Fourteen years later, in 1953, the Legislature enacted ch. 185, F.S., which created a similar funding mechanism for municipal police officers. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.⁷

Funding for these pension plans comes from four sources:⁸

- Net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the “premium tax”);
- Employee contributions;

¹ Section 112.62, F.S.

² Art. X, s. 14, Fla. Const.

³ Section 112.63(3), F.S.

⁴ *Id.*

⁵ *Id.*

⁶ See DMS, *Overview, Legislative History of Chapter 175/185 Program*, available at:

http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans/overview (last visited Jan. 8, 2018).

⁷ *Id.*

⁸ Sections 175.091(1)(a)-(g) and 185.07(1)(a)-(g), F.S.

- Other revenue sources; and
- Mandatory payments by the city of any extra amount needed to keep the plan solvent.

City of Tampa Firefighters and Police Pension Fund

The Firefighters and Police Pension Fund (Fund) for the City of Tampa originally was created through a special act in 1933⁹ and amended through subsequent acts, most recently in 2017.¹⁰ The provisions of these laws are incorporated into a pension contract and appropriate supplemental pension contracts, which are signed by each individual plan member.

The special act provides for pension plan administration, funding, membership and benefits. The general administration and responsibility for the proper operation of the pension system is vested in a board of trustees consisting of nine persons: three members of the city administration appointed by the mayor, three members of the fire department elected by active and retired firefighters, and three members of the police department elected by active and retired police officers.¹¹

As of September 30, 2017, the Fund had 1,388 active members, 1,908 retired members, and 186 members in the Deferred Retirement Option Plan (DROP).¹² As of October 1, 2016, the Fund had \$1,103,569,405 in total assets and \$17,056,352 in unfunded actuarial accrued liability.¹³ Normal retirement age is 46 years of age for those with at least 10 years of service and any age for those with at least 20 years of service.¹⁴

The Fund currently assumes 8.5 percent annual growth of its assets.¹⁵ During the 2015-16 fiscal year, the Fund saw 13.08 percent growth in the actuarial value of its assets and 22.02 percent growth in the market value of its assets.

Survivor Pensions

The widow or any children of a Fund member who dies in the line of duty may receive a pension if certain qualifications are met.¹⁶

A widow may receive monthly payments equal to 65 percent of the member's final yearly earnings from the date of the member's death. If the member died in the line of duty before October 1, 1969, the widow receives a minimum benefit of \$1,500 per month. If the member was also a member of the General Employees Pension Plan, the widow's benefit is reduced upon reaching Social Security normal retirement age by the amount of the actual Social Security benefit earned by the member during his employment as a firefighter or police officer for the City of Tampa, to the extent the Social Security benefit may be creditable service to the Fund.

The child of a member may receive, for the duration of childhood, monthly payments equal to 15 percent of the member's final yearly earnings. The child's benefit is subject to annual limitation on survivor payments to the member's widow and child(ren) of 95 percent of the member's final yearly earnings. A child of a member is not considered a child at the earliest of the date of the child's death, date of marriage, reaching age 18, or reaching age 23 (if a fulltime student). The Fund is authorized to make payments to adopted children; however, stepchildren are expressly excluded.

⁹ Ch. 16721, Laws of Fla. (1933).

¹⁰ Ch. 2017-197, Laws of Fla.

¹¹ Ch. 2011-240, Laws of Fla.

¹² Department of Management Services, *Florida Local Government Retirement Systems 2017 Annual Report*, p. 15 of Appendix F, available at:

http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/local_retirement_section/local_government_annual_reports (last accessed Jan. 8, 2018) (herein DMS Local Government Reports).

¹³ DMS Local Government Reports, p. 18 of Appendix A.

¹⁴ DMS Local Government Reports, p. 64 of Appendix B.

¹⁵ DMS Local Government Reports, p. 20 of Appendix E.

¹⁶ Ch. 16721, Laws of Fla. (1933), s. 8, as amended.

If the widow of a member dies while a child is collecting benefits, the child's allowance increases to 30 percent of the member's final yearly earnings for each child, but may not exceed 60 percent of the member's final yearly earnings.

If a member has no widow or children, the member's designated beneficiary may receive payments for 10 years equal to the amount the member would otherwise be entitled to at normal retirement age.

Effect of Proposed Changes

Pursuant to the requirements of chapters 175 and 185, F.S., the bill authorizes the City of Tampa to enter into a supplemental contract with every firefighter or police officer who is an active member of the Fund, or who hereafter enters into a pension contract with the City of Tampa, on or after the date the bill becomes law.

The bill increases the monthly payment amount a surviving widow may receive upon a member's death from 65 percent of the member's final yearly earnings to 100 percent. The bill provides that this amount is reduced by any benefits received by a member's child(ren), such that the total annual benefits paid by the Fund do not exceed 100 percent of the member's final yearly earnings. The bill limits the total payments to children at 30 percent of the members' final yearly earning and provides that the Fund may adjust the percent paid to children if the member has more than two children.

The changes to the pension contract must be made available in a supplemental pension contract and an individual is not authorized to select some of said changes and reject other changes. Additionally, any actively employed firefighter or police officer who is entitled to benefits under the Fund will have the opportunity to sign a supplemental pension contract before October 1, 2017. However, any person who becomes a member of the Fund on or after the date the bill becomes law must, as a condition of membership into the Fund, sign a pension contract that includes the provisions of this act and must make contributions, if required, as a result of the benefits. Furthermore, the bill approves, ratifies, validates, and confirms the Fund.

Lastly, if the provisions of the act or its application are invalid, the invalidity will not affect other provisions or applications of the act, which can be given effect without the invalid provision, or application. Provisions of the act are severable.

B. SECTION DIRECTORY:

Section 1: Authorizes the City of Tampa to enter into a supplemental contract with certain firefighters and police officers.

Section 2: Amends ch. 16721, Laws of Fla. (1933), as amended, to revise the formula for survivor benefits for Fund members who die in the line of duty.

Section 3: Provides contract requirements.

Section 4: Confirms the City of Tampa Firefighters and Police Officers Pension Contract.

Section 5: Provides for severability.

Section 6: Provides that the bill is effective upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 10, 2017

WHERE? The *Tampa Bay Times*, a daily newspaper of general circulation in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.