

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 1141 Firefighters' Relief and Pension Fund of the City of Pensacola, Escambia County

**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee; White

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	8 Y, 0 N, As CS	Rivera	Miller
2) Oversight, Transparency & Administration Subcommittee	12 Y, 0 N	Harrington	Harrington
3) Government Accountability Committee	19 Y, 0 N	Rivera	Williamson

### SUMMARY ANALYSIS

The Firefighters' Relief and Pension Fund of the City of Pensacola (Pensacola Plan) is a local law pension plan established by the Legislature in 1941. As of September 30, 2017, the Pensacola Plan has 88 active members, 168 retired members, and 20 members in the Deferred Retirement Option Program. In 2015, the Legislature required certain local pension plan sponsors to create a defined contribution component within their plans to fund special benefits. Currently, the Pensacola Plan offers a defined benefits plan but does not offer a defined contribution plan.

The bill adds a defined contribution plan component to the Pensacola Plan. The bill does not fund the defined contribution component of the plan if the city and collective bargaining units mutually consent to use the funds for another purpose. The bill affirms that the new defined contribution component of the plan will be a benefit in addition to, and not affecting existing and future benefits offered. The bill provides that any benefits provided to or on behalf of participants in the Pensacola Plan defined contribution component of the plan must be provided through individual accounts in accordance with federal regulations.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Florida Protection of Public Employee Retirement Benefits Act

Florida constitutionally mandates all units of state, county, special district, and municipal governments participating in, operating, or administering a retirement system for public employees, funded in whole or in part by public funds, to provide a retirement or pension benefit increase only if that benefit also provides a funding scheme based on an actuarially sound basis.<sup>1</sup> The Florida Protection of Public Employee Retirement Benefits Act (Benefits Act), Part VII of ch. 112, F.S., implements this mandate and sets minimum standards for operating and funding public employee retirement systems.<sup>2</sup>

The Department of Management Services (DMS) reviews local government retirement systems for compliance with the Benefits Act, cooperates with local governments on matters of mutual concern, and provides technical assistance on the assessment and revision of local government retirement systems and plans.<sup>3</sup>

Before a unit of local government can agree to a proposed change in retirement benefits, a statement of actuarial impact of the proposed changes must be issued and provided to the Division of Retirement (Division) of DMS.<sup>4</sup> The statement must be issued before the adoption of the change by the governing body of the local government and before the last public hearing about the proposed change, and must indicate the proposed change complies with the constitutional mandate and the Benefits Act.<sup>5</sup>

###### Marvin B. Clayton Firefighters Pension Trust Fund Act

Chapter 175, F.S., provides the statutory authority for municipal and special fire control district firefighter pensions. These laws were enacted to provide a “uniform retirement system” providing defined benefit plans for firefighters 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.<sup>6</sup> Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.<sup>7</sup>

Funding for these pension plans comes from four sources:<sup>8</sup>

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

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<sup>1</sup> See art. X, s. 14, Fla. Const. and s. 112.62, F.S.

<sup>2</sup> Section 112.61, F.S.; see also s. 112.62, F.S. and art. X, s. 14, Fla. Const. Provisions are supplemental to existing laws and local ordinances relating to covered retirement plans but prevail where there is a conflict of law.

<sup>3</sup> Section 112.665(1), F.S.

<sup>4</sup> Sections 112.63(3) and 121.021(4) and (7), F.S.

<sup>5</sup> Section 112.63(3), F.S.

<sup>6</sup> 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](http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans/overview) (last visited Jan. 24, 2018).

<sup>7</sup> *Id.*

<sup>8</sup> Section 175.091(1)(a)-(g), F.S.

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

In 2015, the Legislature, among other matters, required plan sponsors to create a defined contribution component within their plans to fund special benefits:<sup>9</sup>

- By October 1, 2015, for non-collectively bargained service;
- Upon entering into a collective bargaining agreement on or after July 1, 2015; or
- Upon the creation date of a new participating plan.

Participating sponsors are not required to fund the defined contribution component.<sup>10</sup> Chapter 175, F.S., provides for how the insurance premium tax revenues must be used for funding firefighter pension benefits unless the participating sponsor and the majority of the firefighter members, or their collective bargaining representative, mutually consent to use the revenue differently.<sup>11</sup>

#### Pensacola Firefighters' Relief and Pension Fund

The Firefighters' Relief and Pension Fund of the City of Pensacola (Pensacola Plan) is a local law pension plan established by the Legislature in 1941.<sup>12</sup> The act governing the Pensacola Plan was most recently amended in 2015.<sup>13</sup> As of September 30, 2017, the Pensacola Plan has 88 active members, 168 retired members, and 20 members in the Deferred Retirement Option Program.<sup>14</sup> The Pensacola Plan offers a defined benefits plan but does not offer a defined contribution plan.<sup>15</sup>

#### **Effect of Proposed Changes**

The bill adds a defined contribution plan to the Pensacola Plan to comply with s. 175.351(6), F.S., and receive the premium tax revenue allocated to fund the defined contribution component of the plan. The bill provides the defined contribution plan will not be funded if the city and collective bargaining units mutually consent to use the funds for another purpose. The bill affirms that the defined contribution plan is in addition to, and does not affect existing and future benefits offered by the Pensacola Plan. The bill provides that any benefits provided to or on behalf of participants in the Pensacola Plan defined contribution component of the plan must be provided through individual accounts in accordance with federal regulations.

The bill provides an effective date of upon becoming a law.

#### **B. SECTION DIRECTORY:**

Section 1. Amends Ch. 21483, Laws of Fla. (1941), as amended, creating a defined contribution plan as required by s. 175.351, F.S.

Section 2. Provides that the act takes effect upon becoming a law.

### **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes [X] No []

<sup>9</sup> Ch. 2015-39, Laws of Fla., amending s. 175.351(6), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> See s. 175.351(1)(b) and (1)(g), F.S.

<sup>12</sup> Ch. 21483, Laws of Fla. (1941).

<sup>13</sup> Ch. 2015-206, Laws of Fla.

<sup>14</sup> DMS, *2017 Local Government Annual Report*, Appendix F, p. 12, available at

[https://www.dms.myflorida.com/workforce\\_operations/retirement/local\\_retirement\\_plans/local\\_retirement\\_section/local\\_government\\_annual\\_reports](https://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/local_retirement_section/local_government_annual_reports) (accessed on January 24, 2018) (hereinafter DMS Local Government Report).

<sup>15</sup> See Ch. 21483, Laws of Fla. (1941), as amended and DMS Local Government Report, p. J-8 of Appendix J.

IF YES, WHEN? August 17, 2017

WHERE? *Pensacola News Journal*, Escambia 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 neither provides authority nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 16, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment deletes language in order to clarify the new plan supplements the city's defined benefit plan and removes unnecessary language.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Affairs Subcommittee.