

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**  
**GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY**  
**Senator Ring, Chair**  
**Senator Hays, Vice Chair**

**MEETING DATE:** Thursday, February 21, 2013  
**TIME:** 11:00 a.m.—1:30 p.m.  
**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Ring, Chair; Senator Hays, Vice Chair; Senators Bean, Benacquisto, Bradley, Hukill, Montford, Simmons, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
<p><b>A proposed committee substitute</b> for the following bill (SB 458) is expected to be considered:</p>			
1	<b>SB 458</b> Ring	<p>Firefighter and Police Officer Pension Plans; Providing for an additional mandatory payment by the municipality or special fire control district to the firefighters' pension trust fund; amending a provision relating to municipalities and special fire control districts that have their own pension plans and want to participate in the distribution of a tax fund; providing for an additional mandatory payment by the municipality to the municipal police officers' retirement trust fund; amending a provision relating to municipalities that have their own pension plans for police officers and want to participate in the distribution of a tax fund, etc.</p> <p>GO 02/06/2013 Temporarily Postponed  GO 02/21/2013 Fav/CS  CA  AP</p>	<p>Fav/CS  Yeas 9 Nays 0</p>
2	<b>SB 534</b> Brandes (Identical H 599)	<p>Publicly-funded Defined Benefit Retirement Plans; Providing that the state is not liable for shortfalls in local government retirement systems or plans; requiring a defined benefit system or plan to report certain information to the Department of Management Services and specifying the assumptions and methods to be used in determining the information submitted; requiring the plan sponsor to make the information available on certain websites, etc.</p> <p>GO 02/21/2013 Temporarily Postponed  CA  AP</p>	<p>Temporarily Postponed</p>

Other Related Meeting Documents



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2013	.	
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The Committee on Governmental Oversight and Accountability  
(Bradley) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 76 - 576  
and insert:

(6) "Defined contribution plan" means the component of a local law plan to which deposits are made to provide benefits for firefighters, or for firefighters and police officers if both are included, under this chapter. Such component is an element of a local law plan and exists in conjunction with the defined benefit component that meets the minimum benefits and minimum standards of this chapter. The retirement benefits of the defined contribution plan shall be provided through member-



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13 directed investments, in accordance with s. 401(a), s. 401(k),  
14 or s. 457 of the Internal Revenue Code and related regulations.

15 (12)~~(11)~~ "Local law plan" means a retirement defined  
16 benefit pension plan, which includes both a defined benefit plan  
17 component and a defined contribution plan component, for  
18 firefighters, or for firefighters or police officers if both are  
19 ~~where~~ included, as described in s. 175.351, established by  
20 municipal ordinance, special district resolution, or special act  
21 of the Legislature, which ~~enactment~~ sets forth all plan  
22 provisions. Local law plan provisions may vary from the  
23 provisions of this chapter if the, ~~provided that required~~  
24 minimum benefits and minimum standards of this chapter are met.  
25 However, any such variance must ~~shall~~ provide a greater benefit  
26 for firefighters. Actuarial valuations of local law plans shall  
27 be conducted by an enrolled actuary as provided in s.  
28 175.261(2).

29 (18)~~(17)~~ "Supplemental plan" means a plan to which deposits  
30 are made to provide extra benefits for firefighters, or for  
31 firefighters and police officers if both are ~~where~~ included,  
32 under this chapter. Such a plan is an element of a local law  
33 plan and exists in conjunction with a defined benefit component  
34 ~~plan~~ that meets the minimum benefits and minimum standards of  
35 this chapter.

36 Section 2. Paragraph (b) of subsection (7) of section  
37 175.071, Florida Statutes, is amended to read:

38 175.071 General powers and duties of board of trustees.—For  
39 any municipality, special fire control district, chapter plan,  
40 local law municipality, local law special fire control district,  
41 or local law plan under this chapter:



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42 (7) To assist the board in meeting its responsibilities  
43 under this chapter, the board, if it so elects, may:

44 (b) Employ an independent enrolled actuary, as defined in  
45 s. 175.032(7), at the pension fund's expense.

46

47 If the board chooses to use the municipality's or special  
48 district's legal counsel or actuary, or chooses to use any of  
49 the municipality's or special district's other professional,  
50 technical, or other advisers, it must do so only under terms and  
51 conditions acceptable to the board.

52 Section 3. Section 175.351, Florida Statutes, is amended to  
53 read:

54 175.351 Municipalities and special fire control districts  
55 having their own pension plans for firefighters. ~~For any~~  
56 ~~municipality, special fire control district, local law~~  
57 ~~municipality, local law special fire control district, or local~~  
58 ~~law plan under this chapter,~~ In order for a municipality or  
59 ~~municipalities and special fire control~~ district that has its  
60 ~~districts with their own pension plan plans~~ for firefighters, or  
61 for firefighters and police officers if both are included, to  
62 participate in the distribution of the tax fund established  
63 under pursuant to s. 175.101, a local law plan and its plan  
64 sponsor plans must meet the minimum benefits and minimum  
65 standards set forth in this chapter.

66 (1) As used in this section, the term:

67 (a) "Additional premium tax revenues" means revenues  
68 received by a municipality or special fire control district  
69 pursuant to s. 175.121 which exceed base premium tax revenues.

70 (b) "Base benefits" means those benefits in existence for



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71 firefighters on March 12, 1999.

72 (c) "Base premium tax revenues" means revenues received by  
73 a municipality or special fire control district pursuant to s.  
74 175.121 equal to the amount of such revenues received for  
75 calendar year 1997.

76 (d) "Extra benefits" means benefits in addition to or  
77 greater than those provided to general employees of the  
78 municipality and in addition to those in existence for  
79 firefighters on March 12, 1999.

80 (2)(1) If a municipality has a pension plan for  
81 firefighters, or a pension plan for firefighters and police  
82 officers if both are included, which in the opinion of the  
83 division meets the minimum benefits and minimum standards set  
84 forth in this chapter, the board of trustees of the pension  
85 plan, as approved by a majority of firefighters of the  
86 municipality, must ~~may~~

87 ~~(a)~~ place the income from the premium tax in s. 175.101 in  
88 such ~~pension~~ plan for the sole and exclusive use of its  
89 firefighters, or for firefighters and police officers if both  
90 are included, where it shall become an integral part of that  
91 ~~pension~~ plan and ~~shall~~ be used to fund benefits for firefighters  
92 as follows:

93 (a) The base premium tax revenues must be used to fund base  
94 benefits.

95 (b) Additional premium tax revenues must be used to fund:

96 1. Any minimum benefits that were not included in the base  
97 benefits; and

98 2. Any extra benefits that were added after March 12, 1999,  
99 except as provided in subsection (4) ~~to pay extra benefits to~~



100 ~~the firefighters included in that pension plan; or~~  
101 ~~(b) Place the income from the premium tax in s. 175.101 in~~  
102 ~~a separate supplemental plan to pay extra benefits to~~  
103 ~~firefighters, or to firefighters and police officers if~~  
104 ~~included, participating in such separate supplemental plan.~~  
105 (3) Insurance premium tax revenues may not be used to fund  
106 benefits provided in a defined benefit plan which were not  
107 provided by the plan as of March 1, 2013.  
108 (4) If a plan offers extra benefits, such benefits may be  
109 reduced if the plan continues to meet the base benefits of the  
110 plan and the minimum standards set forth in this chapter. Fifty  
111 percent of the amount of insurance premium tax revenues  
112 previously used to fund extra benefits before the reduction must  
113 be used as additional contributions to fund the plan's actuarial  
114 deficiency, and the remaining 50 percent must be used to fund  
115 the base benefits.  
116 (5)(2) The premium tax provided by this chapter shall in  
117 all cases be used in its entirety to provide retirement extra  
118 benefits to firefighters, or to firefighters and police officers  
119 if both are included. However, local law plans in effect on  
120 October 1, 1998, must comply with the minimum benefit provisions  
121 of this chapter only to the extent that additional premium tax  
122 revenues become available to incrementally fund the cost of such  
123 compliance as provided in s. 175.162(2)(a). If a plan is in  
124 compliance with such minimum benefit provisions, as subsequent  
125 additional premium tax revenues become available, they must be  
126 used to provide extra benefits. Local law plans created by  
127 special act before May 27, 1939, are deemed to comply with this  
128 chapter. For the purpose of this chapter, the term:



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129           ~~(a) "Additional premium tax revenues" means revenues~~  
130 ~~received by a municipality or special fire control district~~  
131 ~~pursuant to s. 175.121 which exceed that amount received for~~  
132 ~~calendar year 1997.~~

133           ~~(b) "Extra benefits" means benefits in addition to or~~  
134 ~~greater than those provided to general employees of the~~  
135 ~~municipality and in addition to those in existence for~~  
136 ~~firefighters on March 12, 1999.~~

137           (6)~~(3)~~ A retirement plan or amendment to a retirement plan  
138 may not be proposed for adoption unless the proposed plan or  
139 amendment contains an actuarial estimate of the costs involved.  
140 Such proposed plan or proposed plan change may not be adopted  
141 without the approval of the municipality, special fire control  
142 district, or, where permitted, the Legislature. Copies of the  
143 proposed plan or proposed plan change and the actuarial impact  
144 statement of the proposed plan or proposed plan change shall be  
145 furnished to the division before the last public hearing  
146 thereon. Such statement must also indicate whether the proposed  
147 plan or proposed plan change is in compliance with s. 14, Art. X  
148 of the State Constitution and those provisions of part VII of  
149 chapter 112 which are not expressly provided in this chapter.  
150 Notwithstanding any other provision, only those local law plans  
151 created by special act of legislation before May 27, 1939, are  
152 deemed to meet the minimum benefits and minimum standards only  
153 in this chapter.

154           (7)~~(4)~~ Notwithstanding any other provision, with respect to  
155 any supplemental plan municipality:

156           (a) A local law plan and a supplemental plan may continue  
157 to use their definition of compensation or salary in existence



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158 on March 12, 1999.

159 (b) Section 175.061(1)(b) does not apply, and a local law  
160 plan and a supplemental plan shall continue to be administered  
161 by a board or boards of trustees numbered, constituted, and  
162 selected as the board or boards were numbered, constituted, and  
163 selected on December 1, 2000.

164 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~  
165 ~~have been made.~~

166 (8)~~(5)~~ The retirement plan setting forth the benefits and  
167 the trust agreement, if any, covering the duties and  
168 responsibilities of the trustees and the regulations of the  
169 investment of funds must be in writing, and copies made  
170 available to the participants and to the general public.

171 Section 4. Present subsections (7) through (16) of section  
172 185.02, Florida Statutes, are renumbered as subsections (8)  
173 through (17), respectively, a new subsection (7) is added to  
174 that section, and subsection (4), paragraph (c) of subsection  
175 (5), and present subsections (10) and (15) of that section are  
176 amended, to read:

177 185.02 Definitions.—For any municipality, chapter plan,  
178 local law municipality, or local law plan under this chapter,  
179 the following words and phrases as used in this chapter shall  
180 have the following meanings, unless a different meaning is  
181 plainly required by the context:

182 (4) "Compensation" or "salary" means, for noncollectively  
183 bargained service earned before July 1, 2011, or for service  
184 earned under collective bargaining agreements in place before  
185 July 1, 2011, the total cash remuneration including "overtime"  
186 paid by the primary employer to a police officer for services



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187 rendered, but not including any payments for extra duty or  
188 special detail work performed on behalf of a second party  
189 employer. ~~A local law plan may limit the amount of overtime~~  
190 ~~payments which can be used for retirement benefit calculation~~  
191 ~~purposes; however, such overtime limit may not be less than 300~~  
192 ~~hours per officer per calendar year.~~ For noncollectively  
193 bargained service earned on or after July 1, 2011, or for  
194 service earned under collective bargaining agreements entered  
195 into on or after July 1, 2011, the term has the same meaning  
196 except that when calculating retirement benefits, up to 300  
197 hours per year in overtime compensation may be included as  
198 specified in the plan or collective bargaining agreement, but  
199 payments for accrued unused sick or annual leave may not be  
200 included.

201 (a) Any retirement trust fund or plan that meets the  
202 requirements of this chapter does not, solely by virtue of this  
203 subsection, reduce or diminish the monthly retirement income  
204 otherwise payable to each police officer covered by the  
205 retirement trust fund or plan.

206 (b) The member's compensation or salary contributed as  
207 employee-elective salary reductions or deferrals to any salary  
208 reduction, deferred compensation, or tax-sheltered annuity  
209 program authorized under the Internal Revenue Code shall be  
210 deemed to be the compensation or salary the member would receive  
211 if he or she were not participating in such program and ~~shall be~~  
212 treated as compensation for retirement purposes under this  
213 chapter.

214 (c) For any person who first becomes a member in any plan  
215 year beginning on or after January 1, 1996, compensation for



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216 that plan year may not include any amounts in excess of the  
217 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
218 the Omnibus Budget Reconciliation Act of 1993, which limitation  
219 of \$150,000 shall be adjusted as required by federal law for  
220 qualified government plans and ~~shall be~~ further adjusted for  
221 changes in the cost of living in the manner provided by Internal  
222 Revenue Code s. 401(a)(17)(B). For any person who first became a  
223 member before the first plan year beginning on or after January  
224 1, 1996, the limitation on compensation may not be less than the  
225 maximum compensation amount that was allowed to be taken into  
226 account under the plan ~~as~~ in effect on July 1, 1993, which  
227 limitation shall be adjusted for changes in the cost of living  
228 since 1989 in the manner provided by Internal Revenue Code s.  
229 401(a)(17)(1991).

230 (5) "Creditable service" or "credited service" means the  
231 aggregate number of years of service and fractional parts of  
232 years of service of any police officer, omitting intervening  
233 years and fractional parts of years when such police officer may  
234 not have been employed by the municipality subject to the  
235 following conditions:

236 (c) Credited service under this chapter shall be provided  
237 only for service as a police officer, ~~as defined in subsection~~  
238 ~~(11)~~, or for military service and may not include credit for any  
239 other type of service. A municipality ~~may~~, by local ordinance,  
240 may provide for the purchase of credit for military service  
241 occurring before employment as well as prior service as a police  
242 officer for some other employer as long as the police officer is  
243 not entitled to receive a benefit for such other prior service  
244 as a police officer. For purposes of determining credit for



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245 prior service, in addition to service as a police officer in  
246 this state, credit may be given for federal, other state, or  
247 county service as long as such service is recognized by the  
248 Criminal Justice Standards and Training Commission within the  
249 Department of Law Enforcement as provided under chapter 943 or  
250 the police officer provides proof to the board of trustees that  
251 such service is equivalent to the service required to meet the  
252 definition of a police officer under subsection (12) ~~(11)~~.

253 (7) "Defined contribution plan" means the component of a  
254 local law plan to which deposits are made to provide benefits  
255 for police officers, or for police officers and firefighters if  
256 both are included. Such component is an element of a local law  
257 plan and exists in conjunction with the defined benefit  
258 component that meets the minimum benefits and minimum standards  
259 of this chapter. The retirement benefits of the defined  
260 contribution plan shall be provided through member-directed  
261 investments, in accordance with s. 401(a), s. 401(k), or s. 457  
262 of the Internal Revenue Code and related regulations.

263 (11) ~~(10)~~ "Local law plan" means a retirement defined  
264 benefit pension plan, which includes both a defined benefit plan  
265 component and a defined contribution plan component, for police  
266 officers, or for police officers and firefighters if both are,  
267 ~~where~~ included, as described in s. 185.35, established by  
268 municipal ordinance or special act of the Legislature, which  
269 ~~enactment~~ sets forth all plan provisions. Local law plan  
270 provisions may vary from the provisions of this chapter if the,  
271 ~~provided that required~~ minimum benefits and minimum standards of  
272 this chapter are met. However, any such variance must ~~shall~~  
273 provide a greater benefit for police officers. Actuarial



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274 valuations of local law plans shall be conducted by an enrolled  
275 actuary as provided in s. 185.221(2) (b).

276 ~~(15)~~ (16) "Supplemental plan" means a plan to which deposits  
277 of the premium tax moneys as provided in s. 185.08 are made to  
278 provide extra benefits to police officers, or police officers  
279 and firefighters if both are ~~where~~ included, under this chapter.  
280 Such a plan is an element of a local law plan and exists in  
281 conjunction with a defined benefit component plan ~~plan~~ that meets the  
282 minimum benefits and minimum standards of this chapter.

283 Section 5. Paragraph (b) of subsection (6) of section  
284 185.06, Florida Statutes, is amended to read:

285 185.06 General powers and duties of board of trustees.—For  
286 any municipality, chapter plan, local law municipality, or local  
287 law plan under this chapter:

288 (6) To assist the board in meeting its responsibilities  
289 under this chapter, the board, if it so elects, may:

290 (b) Employ an independent enrolled actuary, as defined in  
291 s. 185.02~~(8)~~, at the pension fund's expense.

292  
293 If the board chooses to use the municipality's or special  
294 district's legal counsel or actuary, or chooses to use any of  
295 the municipality's other professional, technical, or other  
296 advisers, it must do so only under terms and conditions  
297 acceptable to the board.

298 Section 6. Section 185.35, Florida Statutes, is amended to  
299 read:

300 185.35 Municipalities having their own pension plans for  
301 police officers. ~~For any municipality, chapter plan, local law~~  
302 ~~municipality, or local law plan under this chapter,~~ In order for



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303 a municipality municipalities with its their own retirement plan  
304 pension plans for police officers, or for police officers and  
305 firefighters if both are included, to participate in the  
306 distribution of the tax fund established under ~~pursuant to~~ s.  
307 185.08, a local law plan and its plan sponsor plans must meet  
308 the minimum benefits and minimum standards set forth in this  
309 chapter:

310 (1) As used in this section, the term:

311 (a) "Additional premium tax revenues" means revenues  
312 received by a municipality pursuant to s. 185.10 which exceed  
313 base premium tax revenues.

314 (b) "Base benefits" means benefits in existence for police  
315 officers on March 12, 1999.

316 (c) "Base premium tax revenues" means revenues received by  
317 a municipality pursuant to s. 185.10 equal to the amount of such  
318 revenues received for calendar year 1997.

319 (d) "Extra benefits" means benefits in addition to or  
320 greater than those provided to general employees of the  
321 municipality and in addition to those in existence for police  
322 officers on March 12, 1999.

323 (2)~~(1)~~ If a municipality has a retirement ~~pension~~ plan for  
324 police officers, or for police officers and firefighters if both  
325 are included, which, in the opinion of the division, meets the  
326 minimum benefits and minimum standards set forth in this  
327 chapter, the board of trustees of the pension plan, as approved  
328 by a majority of police officers of the municipality, must ~~may~~:

329 ~~(a)~~ place the income from the premium tax in s. 185.08 in  
330 such ~~pension~~ plan for the sole and exclusive use of its police  
331 officers, or its police officers and firefighters if included,



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332 where it shall become an integral part of that ~~pension~~ plan and  
333 ~~shall~~ be used to fund benefits for police officers as follows:  
334 (a) The base premium tax revenues must be used to fund base  
335 benefits.  
336 (b) Additional premium tax revenues must be used to fund:  
337 1. Any minimum benefits that were not included in the base  
338 benefits; and  
339 2. Any extra benefits that were added after March 12, 1999,  
340 except as provided in subsection (4) ~~pay extra benefits to the~~  
341 ~~police officers included in that pension plan; or~~  
342 ~~(b) May place the income from the premium tax in s. 185.08~~  
343 ~~in a separate supplemental plan to pay extra benefits to the~~  
344 ~~police officers, or police officers and firefighters if~~  
345 ~~included, participating in such separate supplemental plan.~~  
346 (3) Insurance premium tax revenues may not be used to fund  
347 benefits provided in a defined benefit plan which were not  
348 provided by the plan as of March 1, 2013.  
349 (4) If a plan offers extra benefits, such benefits may be  
350 reduced if the plan continues to meet the base benefits of the  
351 plan and the minimum standards set forth in this chapter. Fifty  
352 percent of the amount of insurance premium tax revenues  
353 previously used to fund extra benefits before the reduction must  
354 be used as additional contributions to fund the plan's actuarial  
355 deficiency, and the remaining 50 percent must be used to fund  
356 the base benefits.  
357 (5) ~~(2)~~ The premium tax provided by this chapter shall in  
358 all cases be used in its entirety to provide extra benefits to  
359 police officers, or to police officers and firefighters if both  
360 are included. ~~However, local law plans in effect on October 1,~~



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361 ~~1998, must comply with the minimum benefit provisions of this~~  
362 ~~chapter only to the extent that additional premium tax revenues~~  
363 ~~become available to incrementally fund the cost of such~~  
364 ~~compliance as provided in s. 185.16(2). If a plan is in~~  
365 ~~compliance with such minimum benefit provisions, as subsequent~~  
366 ~~additional tax revenues become available, they shall be used to~~  
367 ~~provide extra benefits.~~ Local law plans created by special act  
368 before May 27, 1939, shall be deemed to comply with this  
369 chapter. For the purpose of this chapter, the term:

370 (a) ~~"Additional premium tax revenues" means revenues~~  
371 ~~received by a municipality pursuant to s. 185.10 which exceed~~  
372 ~~the amount received for calendar year 1997.~~

373 (b) ~~"Extra benefits" means benefits in addition to or~~  
374 ~~greater than those provided to general employees of the~~  
375 ~~municipality and in addition to those in existence for police~~  
376 ~~officers on March 12, 1999.~~

377 (6) ~~(3)~~ A retirement plan or amendment to a retirement plan  
378 may not be proposed for adoption unless the proposed plan or  
379 amendment contains an actuarial estimate of the costs involved.  
380 Such proposed plan or proposed plan change may not be adopted  
381 without the approval of the municipality or, where permitted,  
382 the Legislature. Copies of the proposed plan or proposed plan  
383 change and the actuarial impact statement of the proposed plan  
384 or proposed plan change shall be furnished to the division  
385 before the last public hearing thereon. Such statement must also  
386 indicate whether the proposed plan or proposed plan change is in  
387 compliance with s. 14, Art. X of the State Constitution and  
388 those provisions of part VII of chapter 112 which are not  
389 expressly provided in this chapter. Notwithstanding any other



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390 provision, only those local law plans created by special act of  
391 legislation before May 27, 1939, are deemed to meet the minimum  
392 benefits and minimum standards only in this chapter.

393 ~~(7)~~(4) Notwithstanding any other provision, with respect to  
394 any supplemental plan municipality:

395 (a) Section 185.02(4)(a) does not apply, and a local law  
396 plan and a supplemental plan may continue to use their  
397 definition of compensation or salary in existence on March 12,  
398 1999.

399 (b) A local law plan and a supplemental plan must continue  
400 to be administered by a board or boards of trustees numbered,  
401 constituted, and selected as the board or boards were numbered,  
402 constituted, and selected on December 1, 2000.

403 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~  
404 ~~have been made.~~

405 ~~(8)~~(5) The retirement plan setting forth the benefits and  
406 the trust agreement, if any, covering the duties and  
407 responsibilities of the trustees and the regulations of the  
408 investment of funds must be in writing and copies made available  
409 to the participants and to the general public.

411 ===== T I T L E A M E N D M E N T =====

412 And the title is amended as follows:

413 Delete lines 7 - 36

414 and insert:

415 reference; amending s. 175.351, F.S., relating to  
416 municipalities and special fire control districts that  
417 have their own pension plans and want to participate  
418 in the distribution of a tax fund; revising



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419 definitions; revising how income from the premium tax  
420 must be used; amending s. 185.02, F.S.; revising  
421 definitions to conform to changes made by the act and  
422 adding a definition of the term "defined contribution  
423 plan"; deleting a provision allowing a local law plan  
424 to limit the amount of overtime payments which can be  
425 used for retirement benefit calculations; amending s.  
426 185.06, F.S.; conforming a cross-reference; amending  
427 s. 185.35, F.S., relating to municipalities that have  
428 their own pension plans for police officers and want  
429 to participate in the distribution of a tax fund;  
430 revising definitions; revising how income from the  
431 premium tax must be used;



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2013	.	
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The Committee on Governmental Oversight and Accountability  
(Bean) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 290 and 291  
insert:

(10) Notwithstanding any other provision of law, with respect to any plan subject to this chapter, if the municipality or special fire control district and the plan members' collective bargaining representative, or, if there is no collective bargaining representative, a majority of the plan members, mutually consent to the retirement benefits provided in the plan or to the use of income for retirement benefits from the premium tax provided pursuant to this chapter, the



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13 provisions of the agreement shall be deemed to comply with this  
14 chapter for all purposes.

15  
16 Between lines 576 and 577  
17 insert:

18 (10) Notwithstanding any other provision of law, with  
19 respect to any plan subject to this chapter, if the municipality  
20 and the plan members' collective bargaining representative, or,  
21 if there is no collective bargaining representative, a majority  
22 of the plan members, mutually consent to the retirement benefits  
23 provided in the plan or to the use of income for retirement  
24 benefits from the premium tax provided pursuant to this chapter,  
25 the provisions of the agreement shall be deemed to comply with  
26 this chapter for all purposes.

27  
28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 Delete line 19

31 and insert:

32 by a certain date; providing that certain plan  
33 agreements between a municipality or district and the  
34 plan members are deemed to comply with this chapter;  
35 amending s. 185.02, F.S.; revising

36  
37 Delete line 36

38 and insert:

39 contribution plan in place by a certain date;  
40 providing that certain plan agreements between a  
41 municipality and the plan members are deemed to comply



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42

with this chapter;



585-01499C-13

Proposed Committee Substitute by the Committee on Governmental  
Oversight and Accountability

A bill to be entitled

An act relating to firefighter and police officer pension plans; amending s. 175.032, F.S.; revising definitions to conform to changes made by the act and adding a definition for "defined contribution plan"; amending s. 175.071, F.S.; conforming a cross-reference; amending s. 175.091, F.S.; providing for an additional mandatory payment by the municipality or special fire control district to the firefighters' pension trust fund; amending s. 175.351, F.S., relating to municipalities and special fire control districts that have their own pension plans and want to participate in the distribution of a tax fund; revising definitions; revising how income from the premium tax must be used; requiring certain tax revenues to be placed in a defined contribution plan and used to fund special benefits; requiring plan sponsors to have a defined contribution plan in place by a certain date; amending s. 185.02, F.S.; revising definitions to conform to changes made by the act and adding a definition for "defined contribution plan"; deleting a provision allowing a local law plan to limit the amount of overtime payments which can be used for retirement benefit calculations; amending s. 185.06, F.S.; conforming a cross-reference; amending s. 185.07, F.S.; providing for an additional mandatory payment by the municipality to the police officers'



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retirement trust fund; amending s. 185.35, F.S., relating to municipalities that have their own pension plans for police officers and want to participate in the distribution of a tax fund; revising definitions; revising how income from the premium tax must be used; requiring certain tax revenues to be placed in a defined contribution plan and used to fund special benefits; requiring plan sponsors to have a defined contribution plan in place by a certain date; providing a declaration of important state interest; providing an effective date.

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

Section 1. Present subsections (6) through (18) of section 175.032, Florida Statutes, are renumbered as subsections (7) through (19), respectively, a new subsection (6) is added to that section, and paragraph (c) of subsection (4) and present subsections (11) and (17) of that section are amended, and to read:

175.032 Definitions.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the following words and phrases have the following meanings:

(4) "Creditable service" or "credited service" means the aggregate number of years of service, and fractional parts of years of service, of any firefighter, omitting intervening years and fractional parts of years when such firefighter may not have



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57 been employed by the municipality or special fire control  
58 district, subject to the following conditions:

59 (c) Credited service under this chapter shall be provided  
60 only for service as a firefighter, ~~as defined in subsection (8),~~  
61 or for military service and does not include credit for any  
62 other type of service. A municipality ~~may~~, by local ordinance,  
63 or a special fire control district ~~may~~, by resolution, may  
64 provide for the purchase of credit for military service prior to  
65 employment as well as for prior service as a firefighter for  
66 some other employer as long as a firefighter is not entitled to  
67 receive a benefit for such prior service as a firefighter. For  
68 purposes of determining credit for prior service as a  
69 firefighter, in addition to service as a firefighter in this  
70 state, credit may be given for federal, other state, or county  
71 service if the prior service is recognized by the Division of  
72 State Fire Marshal as provided under chapter 633, or the  
73 firefighter provides proof to the board of trustees that his or  
74 her service is equivalent to the service required to meet the  
75 definition of a firefighter under subsection (9) (8).

76 (6) "Defined contribution plan" means the component of a  
77 local law plan to which deposits are made to provide special  
78 benefits for firefighters, or for firefighters and police  
79 officers if both are included, under this chapter. Such  
80 component is an element of a local law plan and exists in  
81 conjunction with the defined benefit component that meets the  
82 minimum benefits and minimum standards of this chapter. The  
83 retirement benefits of the defined contribution plan shall be  
84 provided through member-directed investments, in accordance with  
85 ss. 401(a), 401(k), or 457 of the Internal Revenue Code and



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86 related regulations.

87 (12)(11) "Local law plan" means a retirement defined  
88 benefit pension plan, which includes both a defined benefit plan  
89 component and a defined contribution plan component, for  
90 firefighters, or for firefighters or police officers if both are  
91 where included, as described in s. 175.351, established by  
92 municipal ordinance, special district resolution, or special act  
93 of the Legislature, which enactment sets forth all plan  
94 provisions. Local law plan provisions may vary from the  
95 provisions of this chapter if the, provided that required  
96 minimum benefits and minimum standards of this chapter are met.  
97 However, any such variance must shall provide a greater benefit  
98 for firefighters. Actuarial valuations of local law plans shall  
99 be conducted by an enrolled actuary as provided in s.  
100 175.261(2).

101 (18)(17) "Supplemental plan" means a plan to which deposits  
102 are made to provide extra benefits for firefighters, or for  
103 firefighters and police officers if both are where included,  
104 under this chapter. Such a plan is an element of a local law  
105 plan and exists in conjunction with a defined benefit component  
106 plan that meets the minimum benefits and minimum standards of  
107 this chapter.

108 Section 2. Paragraph (b) of subsection (7) of section  
109 175.071, Florida Statutes, is amended to read:

110 175.071 General powers and duties of board of trustees.—For  
111 any municipality, special fire control district, chapter plan,  
112 local law municipality, local law special fire control district,  
113 or local law plan under this chapter:

114 (7) To assist the board in meeting its responsibilities



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115 under this chapter, the board, if it so elects, may:

116 (b) Employ an independent enrolled actuary, as defined in  
117 s. 175.032(7), at the pension fund's expense.

118  
119 If the board chooses to use the municipality's or special  
120 district's legal counsel or actuary, or chooses to use any of  
121 the municipality's or special district's other professional,  
122 technical, or other advisers, it must do so only under terms and  
123 conditions acceptable to the board.

124 Section 3. Present paragraphs (e), (f), and (g) of  
125 subsection (1) of section 175.091, Florida Statutes, are  
126 redesignated as paragraphs (f), (g), and (h), respectively, and  
127 a new paragraph (e) is added to that subsection, to read:

128 175.091 Creation and maintenance of fund.—For any  
129 municipality, special fire control district, chapter plan, local  
130 law municipality, local law special fire control district, or  
131 local law plan under this chapter:

132 (1) The firefighters' pension trust fund in each  
133 municipality and in each special fire control district shall be  
134 created and maintained in the following manner:

135 (e) By mandatory payment by the municipality or special  
136 fire control district of the amount specified in s. 175.351(4)  
137 if the long-term funded ratio of the plan is less than 80  
138 percent as shown by the most recent valuation of the plan.

139  
140 Nothing in this section shall be construed to require adjustment  
141 of member contribution rates in effect on the date this act  
142 becomes a law, including rates that exceed 5 percent of salary,  
143 provided that such rates are at least one-half of 1 percent of



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144 salary.

145 Section 4. Section 175.351, Florida Statutes, is amended to  
146 read:

147 175.351 Municipalities and special fire control districts  
148 having their own pension plans for firefighters.—~~For any~~  
149 ~~municipality, special fire control district, local law~~  
150 ~~municipality, local law special fire control district, or local~~  
151 ~~law plan under this chapter,~~ In order for a municipality or  
152 municipalities and special fire control district that has its  
153 districts with their own pension plan plans for firefighters, or  
154 for firefighters and police officers if both are included, to  
155 participate in the distribution of the tax fund established  
156 under pursuant to s. 175.101, a local law plan and its plan  
157 sponsor plans must meet the minimum benefits and minimum  
158 standards set forth in this chapter.

159 (1) As used in this section, the term:

160 (a) "Additional premium tax revenues" means revenues  
161 received by a municipality or special fire control district  
162 pursuant to s. 175.121 which exceed base premium tax revenues.

163 (b) "Base benefits" means those benefits in existence for  
164 firefighters on March 12, 1999.

165 (c) "Base premium tax revenues" means revenues received by  
166 a municipality or special fire control district pursuant to s.  
167 175.121 equal to the amount of such revenues received for  
168 calendar year 1997.

169 (d) "Extra benefits" means benefits in addition to or  
170 greater than those provided to general employees of the  
171 municipality and in addition to those in existence for  
172 firefighters on March 12, 1999.



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173 (e) "Special benefits" means benefits provided in a defined  
174 contribution plan.

175 ~~(2)(1)~~ If a municipality has a pension plan for  
176 firefighters, or a pension plan for firefighters and police  
177 officers if both are included, which in the opinion of the  
178 division meets the minimum benefits and minimum standards set  
179 forth in this chapter, the board of trustees of the pension  
180 plan, as approved by a majority of firefighters of the  
181 municipality, must may:

182 ~~(a)~~ place the income from the premium tax in s. 175.101 in  
183 such ~~pension~~ plan for the sole and exclusive use of its  
184 firefighters, or for firefighters and police officers if both  
185 are included, where it shall become an integral part of that  
186 ~~pension~~ plan and ~~shall be used to fund benefits for firefighters~~  
187 as follows:

188 (a) The base premium tax revenues must be used to fund base  
189 benefits.

190 (b) Of the premium tax revenues received that are in excess  
191 of the amount received for the 2012 calendar year, and any  
192 accumulations of additional premium tax revenues that have not  
193 been applied to fund extra benefits:

194 1. If the plan has a long-term funded ratio of less than 80  
195 percent as shown by the most recent valuation of the plan:

196 a. Seventy-five percent must be used as additional  
197 contributions to pay the plan's actuarial deficiency; and

198 b. Twenty-five percent must be placed in a defined  
199 contribution plan to fund special benefits.

200 2. If the plan has a long-term funded ratio of 80 percent  
201 or greater as shown by the most recent valuation of the plan,



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202 100 percent must be placed in a defined contribution plan to  
203 fund special benefits.

204 (c) Additional premium tax revenues not described in  
205 paragraph (b) must be used to fund:

206 1. Any minimum benefits that were not included in the base  
207 benefits; and

208 2. Any extra benefits that were added after March 12, 1999,  
209 except as provided in subsection (4) to pay extra benefits to  
210 the firefighters included in that pension plan; or

211 ~~(b)~~ Place the income from the premium tax in s. 175.101 in  
212 a separate supplemental plan to pay extra benefits to  
213 firefighters, or to firefighters and police officers if  
214 included, participating in such separate supplemental plan.

215 (3) Insurance premium tax revenues may not be used to fund  
216 benefits provided in a defined benefit plan which were not  
217 provided by the plan as of March 1, 2013.

218 (4) If a plan offers extra benefits, such benefits may be  
219 reduced if the plan continues to meet the base benefits of the  
220 plan and the minimum standards set forth in this chapter. The  
221 amount of insurance premium tax revenues previously used to fund  
222 extra benefits before the reduction must be used as provided in  
223 subsection (2) (b). Twenty-five percent of the amount of any  
224 mandatory contribution paid by the municipality or special fire  
225 control district that were previously used to fund extra  
226 benefits before the reduction must be used as additional  
227 contributions as specified in s. 175.091 to fund the plan's  
228 actuarial deficiency.

229 ~~(5)(2)~~ The premium tax provided by this chapter shall ~~in~~  
230 all cases be used in its entirety to provide retirement extra



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231 benefits to firefighters, or to firefighters and police officers  
232 if both are included. ~~However, local law plans in effect on~~  
233 ~~October 1, 1998, must comply with the minimum benefit provisions~~  
234 ~~of this chapter only to the extent that additional premium tax~~  
235 ~~revenues become available to incrementally fund the cost of such~~  
236 ~~compliance as provided in s. 175.162(2)(a). If a plan is in~~  
237 ~~compliance with such minimum benefit provisions, as subsequent~~  
238 ~~additional premium tax revenues become available, they must be~~  
239 ~~used to provide extra benefits. Local law plans created by~~  
240 ~~special act before May 27, 1939, are deemed to comply with this~~  
241 ~~chapter. For the purpose of this chapter, the term:~~

242 (a) ~~"Additional premium tax revenues" means revenues~~  
243 ~~received by a municipality or special fire control district~~  
244 ~~pursuant to s. 175.121 which exceed that amount received for~~  
245 ~~calendar year 1997.~~

246 (b) ~~"Extra benefits" means benefits in addition to or~~  
247 ~~greater than those provided to general employees of the~~  
248 ~~municipality and in addition to those in existence for~~  
249 ~~firefighters on March 12, 1999.~~

250 ~~(6)(3)~~ A retirement plan or amendment to a retirement plan  
251 may not be proposed for adoption unless the proposed plan or  
252 amendment contains an actuarial estimate of the costs involved.  
253 Such proposed plan or proposed plan change may not be adopted  
254 without the approval of the municipality, special fire control  
255 district, or, where permitted, the Legislature. Copies of the  
256 proposed plan or proposed plan change and the actuarial impact  
257 statement of the proposed plan or proposed plan change shall be  
258 furnished to the division before the last public hearing  
259 thereon. Such statement must also indicate whether the proposed



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260 plan or proposed plan change is in compliance with s. 14, Art. X  
261 of the State Constitution and those provisions of part VII of  
262 chapter 112 which are not expressly provided in this chapter.  
263 Notwithstanding any other provision, only those local law plans  
264 created by special act of legislation before May 27, 1939, are  
265 deemed to meet the minimum benefits and minimum standards only  
266 in this chapter.

267 ~~(7)(4)~~ Notwithstanding any other provision, with respect to  
268 any supplemental plan municipality:

269 (a) A local law plan and a supplemental plan may continue  
270 to use their definition of compensation or salary in existence  
271 on March 12, 1999.

272 (b) Section 175.061(1)(b) does not apply, and a local law  
273 plan and a supplemental plan shall continue to be administered  
274 by a board or boards of trustees numbered, constituted, and  
275 selected as the board or boards were numbered, constituted, and  
276 selected on December 1, 2000.

277 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~  
278 ~~have been made.~~

279 ~~(8)(5)~~ The retirement plan setting forth the benefits and  
280 the trust agreement, if any, covering the duties and  
281 responsibilities of the trustees and the regulations of the  
282 investment of funds must be in writing, and copies made  
283 available to the participants and to the general public.

284 (9) In addition to the defined benefit component of the  
285 local law plan, each plan sponsor must have a defined  
286 contribution plan component within the local law plan by October  
287 1, 2013, or upon the creation date of a new participating plan.  
288 However, the plan sponsor of any plan established by special act



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289 of the Legislature has until July 1, 2014, to create a defined  
290 contribution component within the plan.

291 Section 5. Present subsections (7) through (16) of section  
292 185.02, Florida Statutes, are renumbered as subsections (8)  
293 through (17), respectively, a new subsection (7) is added to  
294 that section, and subsection (4), paragraph (c) of subsection  
295 (5), and present subsections (10) and (15) of that section are  
296 amended, to read:

297 185.02 Definitions.—For any municipality, chapter plan,  
298 local law municipality, or local law plan under this chapter,  
299 the following words and phrases as used in this chapter shall  
300 have the following meanings, unless a different meaning is  
301 plainly required by the context:

302 (4) "Compensation" or "salary" means, for noncollectively  
303 bargained service earned before July 1, 2011, or for service  
304 earned under collective bargaining agreements in place before  
305 July 1, 2011, the total cash remuneration including "overtime"  
306 paid by the primary employer to a police officer for services  
307 rendered, but not including any payments for extra duty or  
308 special detail work performed on behalf of a second party  
309 employer. ~~A local law plan may limit the amount of overtime~~  
310 ~~payments which can be used for retirement benefit calculation~~  
311 ~~purposes; however, such overtime limit may not be less than 300~~  
312 ~~hours per officer per calendar year.~~ For noncollectively  
313 bargained service earned on or after July 1, 2011, or for  
314 service earned under collective bargaining agreements entered  
315 into on or after July 1, 2011, the term has the same meaning  
316 except that when calculating retirement benefits, up to 300  
317 hours per year in overtime compensation may be included as



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318 specified in the plan or collective bargaining agreement, but  
319 payments for accrued unused sick or annual leave may not be  
320 included.

321 (a) Any retirement trust fund or plan that meets the  
322 requirements of this chapter does not, solely by virtue of this  
323 subsection, reduce or diminish the monthly retirement income  
324 otherwise payable to each police officer covered by the  
325 retirement trust fund or plan.

326 (b) The member's compensation or salary contributed as  
327 employee-elective salary reductions or deferrals to any salary  
328 reduction, deferred compensation, or tax-sheltered annuity  
329 program authorized under the Internal Revenue Code shall be  
330 deemed to be the compensation or salary the member would receive  
331 if he or she were not participating in such program and ~~shall be~~  
332 treated as compensation for retirement purposes under this  
333 chapter.

334 (c) For any person who first becomes a member in any plan  
335 year beginning on or after January 1, 1996, compensation for  
336 that plan year may not include any amounts in excess of the  
337 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
338 the Omnibus Budget Reconciliation Act of 1993, which limitation  
339 of \$150,000 shall be adjusted as required by federal law for  
340 qualified government plans and ~~shall be~~ further adjusted for  
341 changes in the cost of living in the manner provided by Internal  
342 Revenue Code s. 401(a)(17)(B). For any person who first became a  
343 member before the first plan year beginning on or after January  
344 1, 1996, the limitation on compensation may not be less than the  
345 maximum compensation amount that was allowed to be taken into  
346 account under the plan ~~as~~ in effect on July 1, 1993, which



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347 limitation shall be adjusted for changes in the cost of living  
348 since 1989 in the manner provided by Internal Revenue Code s.  
349 401(a) (17) (1991) .

350 (5) "Creditable service" or "credited service" means the  
351 aggregate number of years of service and fractional parts of  
352 years of service of any police officer, omitting intervening  
353 years and fractional parts of years when such police officer may  
354 not have been employed by the municipality subject to the  
355 following conditions:

356 (c) Credited service under this chapter shall be provided  
357 only for service as a police officer, ~~as defined in subsection~~  
358 ~~(11)~~, or for military service and may not include credit for any  
359 other type of service. A municipality ~~may~~, by local ordinance,  
360 ~~may~~ provide for the purchase of credit for military service  
361 occurring before employment as well as prior service as a police  
362 officer for some other employer as long as the police officer is  
363 not entitled to receive a benefit for such other prior service  
364 as a police officer. For purposes of determining credit for  
365 prior service, in addition to service as a police officer in  
366 this state, credit may be given for federal, other state, or  
367 county service as long as such service is recognized by the  
368 Criminal Justice Standards and Training Commission within the  
369 Department of Law Enforcement as provided under chapter 943 or  
370 the police officer provides proof to the board of trustees that  
371 such service is equivalent to the service required to meet the  
372 definition of a police officer under subsection (12) ~~(11)~~.

373 (7) "Defined contribution plan" means the component of a  
374 local law plan to which deposits are made to provide special  
375 benefits for police officers, or for police officers and



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376 firefighters if both are included. Such component is an element  
377 of a local law plan and exists in conjunction with the defined  
378 benefit component that meets the minimum benefits and minimum  
379 standards of this chapter. The retirement benefits of the  
380 defined contribution plan shall be provided through member-  
381 directed investments, in accordance with ss. 401(a), 401(k), or  
382 457 of the Internal Revenue Code and related regulations.

383 (11)(10) "Local law plan" means a retirement defined  
384 benefit pension plan, which includes both a defined benefit plan  
385 component and a defined contribution plan component, for police  
386 officers, or for police officers and firefighters if both are,  
387 where included, as described in s. 185.35, established by  
388 municipal ordinance or special act of the Legislature, which  
389 enactment sets forth all plan provisions. Local law plan  
390 provisions may vary from the provisions of this chapter if the,  
391 provided that required minimum benefits and minimum standards of  
392 this chapter are met. However, any such variance must shall  
393 provide a greater benefit for police officers. Actuarial  
394 valuations of local law plans shall be conducted by an enrolled  
395 actuary as provided in s. 185.221(2) (b) .

396 (16)(15) "Supplemental plan" means a plan to which deposits  
397 of the premium tax moneys as provided in s. 185.08 are made to  
398 provide extra benefits to police officers, or police officers  
399 and firefighters if both are where included, under this chapter.  
400 Such a plan is an element of a local law plan and exists in  
401 conjunction with a defined benefit component plan that meets the  
402 minimum benefits and minimum standards of this chapter.

403 Section 6. Paragraph (b) of subsection (6) of section  
404 185.06, Florida Statutes, is amended to read:



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405 185.06 General powers and duties of board of trustees.—For  
406 any municipality, chapter plan, local law municipality, or local  
407 law plan under this chapter:

408 (6) To assist the board in meeting its responsibilities  
409 under this chapter, the board, if it so elects, may:

410 (b) Employ an independent enrolled actuary, as defined in  
411 s. 185.02(8), at the pension fund's expense.

412

413 If the board chooses to use the municipality's or special  
414 district's legal counsel or actuary, or chooses to use any of  
415 the municipality's other professional, technical, or other  
416 advisers, it must do so only under terms and conditions  
417 acceptable to the board.

418 Section 7. Present paragraphs (e), (f), and (g) of  
419 subsection (1) of section 185.07, Florida Statutes, are  
420 redesignated as paragraphs (f), (g), and (h), respectively, and  
421 a new paragraph (e) is added to that subsection, to read:

422 185.07 Creation and maintenance of fund.—For any  
423 municipality, chapter plan, local law municipality, or local law  
424 plan under this chapter:

425 (1) The municipal police officers' retirement trust fund in  
426 each municipality described in s. 185.03 shall be created and  
427 maintained in the following manner:

428 (e) By mandatory payment by the municipality of the amount  
429 specified in s. 185.35(4) if the long-term funded ratio of the  
430 plan is less than 80 percent as shown by the most recent  
431 valuation of the plan.

432

433 Nothing in this section shall be construed to require adjustment



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434 of member contribution rates in effect on the date this act  
435 becomes a law, including rates that exceed 5 percent of salary,  
436 provided that such rates are at least one-half of 1 percent of  
437 salary.

438 Section 8. Section 185.35, Florida Statutes, is amended to  
439 read:

440 185.35 Municipalities having their own pension plans for  
441 police officers.—~~For any municipality, chapter plan, local law~~  
442 ~~municipality, or local law plan under this chapter,~~ In order for  
443 a municipality municipalities with its their own retirement plan  
444 pension plans for police officers, or for police officers and  
445 firefighters if both are included, to participate in the  
446 distribution of the tax fund established under pursuant to s.  
447 185.08, a local law plan and its plan sponsor plans must meet  
448 the minimum benefits and minimum standards set forth in this  
449 chapter:

450 (1) As used in this section, the term:

451 (a) "Additional premium tax revenues" means revenues  
452 received by a municipality pursuant to s. 185.10 which exceed  
453 base premium tax revenues.

454 (b) "Base benefits" means benefits in existence for police  
455 officers on March 12, 1999.

456 (c) "Base premium tax revenues" means revenues received by  
457 a municipality pursuant to s. 185.10 equal to the amount of such  
458 revenues received for calendar year 1997.

459 (d) "Extra benefits" means benefits in addition to or  
460 greater than those provided to general employees of the  
461 municipality and in addition to those in existence for police  
462 officers on March 12, 1999.



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463 (e) "Special benefits" means benefits provided in a defined  
464 contribution plan.

465 (2)(1) If a municipality has a retirement pension plan for  
466 police officers, or for police officers and firefighters if both  
467 are included, which, in the opinion of the division, meets the  
468 minimum benefits and minimum standards set forth in this  
469 chapter, the board of trustees of the pension plan, as approved  
470 by a majority of police officers of the municipality, must may+

471 (a) place the income from the premium tax in s. 185.08 in  
472 such pension plan for the sole and exclusive use of its police  
473 officers, or its police officers and firefighters if included,  
474 where it shall become an integral part of that pension plan and  
475 shall be used to fund benefits for police officers as follows:

476 (a) The base premium tax revenues must be used to fund base  
477 benefits.

478 (b) Of the premium tax revenues received that are in excess  
479 of the amount received for the 2012 calendar year, and any  
480 accumulations of additional premium tax revenues that have not  
481 been applied to fund extra benefits:

482 1. If the plan has a long-term funded ratio of less than 80  
483 percent as shown by the most recent valuation of the plan:

484 a. Seventy-five percent must be used as additional  
485 contributions to pay the plan's actuarial deficiency; and

486 b. Twenty-five percent must be placed in a defined  
487 contribution plan to fund special benefits.

488 2. If the plan has a long-term funded ratio of 80 percent  
489 or greater as shown by the most recent valuation of the plan,  
490 100 percent must be placed in a defined contribution plan to  
491 fund special benefits.



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492 (c) Additional premium tax revenues not described in  
493 paragraph (b) must be used to fund:

494 1. Any minimum benefits that were not included in the base  
495 benefits; and

496 2. Any extra benefits that were added after March 12, 1999,  
497 except as provided in subsection (4) pay extra benefits to the  
498 police officers included in that pension plan; or

499 (b) May place the income from the premium tax in s. 185.08  
500 in a separate supplemental plan to pay extra benefits to the  
501 police officers, or police officers and firefighters if  
502 included, participating in such separate supplemental plan.

503 (3) Insurance premium tax revenues may not be used to fund  
504 benefits provided in a defined benefit plan which were not  
505 provided by the plan as of March 1, 2013.

506 (4) If a plan offers extra benefits, such benefits may be  
507 reduced if the plan continues to meet the base benefits of the  
508 plan and the minimum standards set forth in this chapter. The  
509 amount of insurance premium tax revenues previously used to fund  
510 extra benefits before the reduction must be used as provided in  
511 subsection (2)(b). Twenty-five percent of the amount of any  
512 mandatory contribution paid by the municipality or special fire  
513 control district that were previously used to fund extra  
514 benefits before the reduction must be used as additional  
515 contributions as specified in s. 185.07 to fund the plan's  
516 actuarial deficiency.

517 (5)(2) The premium tax provided by this chapter shall in  
518 all cases be used in its entirety to provide extra benefits to  
519 police officers, or to police officers and firefighters if both  
520 are included. However, local law plans in effect on October 1,



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521 ~~1998, must comply with the minimum benefit provisions of this~~  
522 ~~chapter only to the extent that additional premium tax revenues~~  
523 ~~become available to incrementally fund the cost of such~~  
524 ~~compliance as provided in s. 185.16(2). If a plan is in~~  
525 ~~compliance with such minimum benefit provisions, as subsequent~~  
526 ~~additional tax revenues become available, they shall be used to~~  
527 ~~provide extra benefits.~~ Local law plans created by special act  
528 before May 27, 1939, shall be deemed to comply with this  
529 chapter. For the purpose of this chapter, the term:

530 (a) "Additional premium tax revenues" means revenues  
531 received by a municipality pursuant to s. 185.10 which exceed  
532 the amount received for calendar year 1997.

533 (b) "Extra benefits" means benefits in addition to or  
534 greater than those provided to general employees of the  
535 municipality and in addition to those in existence for police  
536 officers on March 12, 1999.

537 (6)(3) A retirement plan or amendment to a retirement plan  
538 may not be proposed for adoption unless the proposed plan or  
539 amendment contains an actuarial estimate of the costs involved.  
540 Such proposed plan or proposed plan change may not be adopted  
541 without the approval of the municipality or, where permitted,  
542 the Legislature. Copies of the proposed plan or proposed plan  
543 change and the actuarial impact statement of the proposed plan  
544 or proposed plan change shall be furnished to the division  
545 before the last public hearing thereon. Such statement must also  
546 indicate whether the proposed plan or proposed plan change is in  
547 compliance with s. 14, Art. X of the State Constitution and  
548 those provisions of part VII of chapter 112 which are not  
549 expressly provided in this chapter. Notwithstanding any other



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550 provision, only those local law plans created by special act of  
551 legislation before May 27, 1939, are deemed to meet the minimum  
552 benefits and minimum standards only in this chapter.

553 (7)(4) Notwithstanding any other provision, with respect to  
554 any supplemental plan municipality:

555 (a) Section 185.02(4) (a) does not apply, and a local law  
556 plan and a supplemental plan may continue to use their  
557 definition of compensation or salary in existence on March 12,  
558 1999.

559 (b) A local law plan and a supplemental plan must continue  
560 to be administered by a board or boards of trustees numbered,  
561 constituted, and selected as the board or boards were numbered,  
562 constituted, and selected on December 1, 2000.

563 (c) The election set forth in paragraph (1)(b) is deemed to  
564 have been made.

565 (8)(5) The retirement plan setting forth the benefits and  
566 the trust agreement, if any, covering the duties and  
567 responsibilities of the trustees and the regulations of the  
568 investment of funds must be in writing and copies made available  
569 to the participants and to the general public.

570 (9) In addition to the defined benefit component of the  
571 local law plan, each plan sponsor must have a defined  
572 contribution plan component within the local law plan by October  
573 1, 2013, or upon the creation date of a new participating plan.  
574 However, the plan sponsor of any plan established by special act  
575 of the Legislature has until July 1, 2014, to create a defined  
576 contribution component within the plan.

577 Section 9. The Legislature finds that a proper and  
578 legitimate state purpose is served when employees and retirees



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579 of the state and its political subdivisions, and the dependents,  
580 survivors, and beneficiaries of such employees and retirees, are  
581 extended the basic protections afforded by governmental  
582 retirement systems that provide fair and adequate benefits and  
583 that are managed, administered, and funded in an actuarially  
584 sound manner as required by s. 14, Article X of the State  
585 Constitution and part VII of chapter 112, Florida Statutes.  
586 Therefore, the Legislature determines and declares that this act  
587 fulfills an important state interest.

588 Section 10. This act shall take effect July 1, 2013.



442394

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2013	.	
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	.	
	.	

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The Committee on Governmental Oversight and Accountability  
(Ring) recommended the following:

**Senate Amendment**

Delete lines 271 - 273  
and insert:  
ratio of the actuarial value of assets of the plan to the  
actuarial accrued liabilities of the plan, as reported in the  
most recent actuarial valuation of the plan, deemed to be in  
compliance with

Delete lines 705 - 707  
and insert:  
ratio of the actuarial value of assets of the plan to the



442394

13 actuarial accrued liabilities of the plan, as reported in the  
14 most recent actuarial valuation of the plan, deemed to be in  
15 compliance with



607428

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2013	.	
	.	
	.	
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The Committee on Governmental Oversight and Accountability  
(Ring) recommended the following:

**Senate Amendment**

Delete lines 353 - 354  
and insert:  
described in paragraph (a) that must be used to fund defined  
benefit plan benefits, except as otherwise excluded from  
consideration in determining the mandatory payment.

Delete lines 791 - 792  
and insert:  
must be used to fund defined benefit plan benefits, except as  
otherwise excluded from consideration in determining the



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13 mandatory payment.



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Proposed Committee Substitute by the Committee on Governmental  
Oversight and Accountability

A bill to be entitled

An act relating to firefighter and police officer  
pension plans; amending s. 175.021, F.S.; revising the  
legislative declaration to require all plans to meet  
the requirements of ch. 175, F.S., in order to receive  
insurance premium tax revenues; amending s. 175.032,  
F.S.; revising definitions to conform to changes made  
by the act and adding new definitions; amending s.  
175.071, F.S.; conforming a cross-reference; amending  
s. 175.091, F.S.; revising existing payment provisions  
and providing an additional mandatory payment by the  
municipality or special fire control district to the  
firefighters' pension trust fund; amending s. 175.351,  
F.S., relating to municipalities and special fire  
control districts that have their own pension plans  
and want to participate in the distribution of a tax  
fund; revising how income from the premium tax must be  
used; requiring plan sponsors to have a defined  
contribution plan in place by a certain date; amending  
s. 185.01, F.S.; revising the legislative declaration  
to require all plans to meet the requirements of ch.  
185, F.S., in order to receive insurance premium tax  
revenues; amending s. 185.02, F.S.; revising  
definitions to conform to changes made by the act and  
adding new definitions; deleting a provision allowing  
a local law plan to limit the amount of overtime  
payments which can be used for retirement benefit

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calculations; amending s. 185.06, F.S.; conforming a  
cross-reference; amending s. 185.07, F.S.; revising  
existing payment provisions and providing for an  
additional mandatory payment by the municipality to  
the police officers' retirement trust fund; amending  
s. 185.35, F.S., relating to municipalities that have  
their own pension plans for police officers and want  
to participate in the distribution of a tax fund;  
revising how income from the premium tax must be used;  
requiring plan sponsors to have a defined contribution  
plan in place by a certain date; providing a  
declaration of important state interest; providing an  
effective date.

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

Section 1. Subsection (2) of section 175.021, Florida  
Statutes, is amended to read:

175.021 Legislative declaration.—

(2) This chapter hereby establishes, for all municipal and  
special district pension plans existing ~~now or hereafter~~ under  
this chapter, including chapter plans and local law plans, base  
~~minimum~~ benefits and minimum standards for the operation and  
funding of such plans, hereinafter referred to as firefighters'  
pension trust funds, which must be met as a condition precedent  
to the plan or plan sponsor receiving a distribution of  
insurance premium tax revenues under s. 175.121. The base  
~~minimum~~ benefits and minimum standards for each plan as set  
forth in this chapter may not be diminished by local charter,

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57 ordinance, or resolution or by special act of the Legislature,  
58 ~~or nor may the minimum benefits or minimum standards~~ be reduced  
59 or offset by any other local, state, or federal law that may  
60 include firefighters in its operation, except as provided under  
61 s. 112.65.

62 Section 2. Section 175.032, Florida Statutes, is amended to  
63 read:

64 175.032 Definitions.—For any municipality, special fire  
65 control district, chapter plan, local law municipality, local  
66 law special fire control district, or local law plan under this  
67 chapter, the term following words and phrases have the following  
68 meanings:

69 (1) “Additional premium tax revenues” means revenues  
70 received by a municipality or special fire control district  
71 pursuant to s. 175.121 which exceed base premium tax revenues.

72 (2) ~~(1) (a)~~ “Average final compensation” for:

73 (a) A full-time firefighter means one-twelfth of the  
74 average annual compensation of the 5 best years of the last 10  
75 years of creditable service ~~before prior to~~ retirement,  
76 termination, or death, or the career average as a full-time  
77 firefighter since July 1, 1953, whichever is greater. A year is  
78 ~~shall be~~ 12 consecutive months or such other consecutive period  
79 of time as is used and consistently applied.

80 (b) ~~“Average final compensation” for~~ A volunteer  
81 firefighter means the average salary of the 5 best years of the  
82 last 10 best contributing years ~~before a prior to~~ change in  
83 status to a permanent full-time firefighter or retirement as a  
84 volunteer firefighter or the career average of a volunteer  
85 firefighter, since July 1, 1953, whichever is greater.



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86 (3) “Base benefits” means the level of benefits in  
87 existence for firefighters on March 12, 1999.

88 (4) “Base premium tax revenues” means revenues received by  
89 a municipality or special fire control district pursuant to s.  
90 175.121 equal to the amount of such revenues received for  
91 calendar year 1997.

92 (5) ~~(2)~~ “Chapter plan” means a separate defined benefit  
93 pension plan for firefighters which incorporates by reference  
94 the provisions of this chapter and has been adopted by the  
95 governing body of a municipality or special district. Except as  
96 may be specifically authorized in this chapter, the provisions  
97 of a chapter plan may not differ from the plan provisions set  
98 forth in ss. 175.021-175.341 and 175.361-175.401. Actuarial  
99 valuations of chapter plans shall be conducted by the division  
100 as provided by s. 175.261(1).

101 (6) ~~(3)~~ “Compensation” or “salary” means, for  
102 noncollectively bargained service earned before July 1, 2011, or  
103 for service earned under collective bargaining agreements in  
104 place before July 1, 2011, the fixed monthly remuneration paid a  
105 firefighter. If remuneration is based on actual services  
106 rendered, as in the case of a volunteer firefighter, the term  
107 means the total cash remuneration received yearly for such  
108 services, prorated on a monthly basis. For noncollectively  
109 bargained service earned on or after July 1, 2011, or for  
110 service earned under collective bargaining agreements entered  
111 into on or after July 1, 2011, the term has the same meaning  
112 except that when calculating retirement benefits, up to 300  
113 hours per year in overtime compensation may be included as  
114 specified in the plan or collective bargaining agreement, but



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115 payments for accrued unused sick or annual leave may not be  
116 included.

117 (a) Any retirement trust fund or plan that meets the  
118 requirements of this chapter does not, solely by virtue of this  
119 subsection, reduce or diminish the monthly retirement income  
120 otherwise payable to each firefighter covered by the retirement  
121 trust fund or plan.

122 (b) The member's compensation or salary contributed as  
123 employee-elective salary reductions or deferrals to any salary  
124 reduction, deferred compensation, or tax-sheltered annuity  
125 program authorized under the Internal Revenue Code shall be  
126 deemed to be the compensation or salary the member would receive  
127 if he or she were not participating in such program and ~~shall be~~  
128 treated as compensation for retirement purposes under this  
129 chapter.

130 (c) For any person who first becomes a member in any plan  
131 year beginning on or after January 1, 1996, compensation for  
132 that plan year may not include any amounts in excess of the  
133 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
134 the Omnibus Budget Reconciliation Act of 1993, which limitation  
135 of \$150,000 shall be adjusted as required by federal law for  
136 qualified government plans and shall be further adjusted for  
137 changes in the cost of living in the manner provided by Internal  
138 Revenue Code s. 401(a)(17)(B). For any person who first became a  
139 member before the first plan year beginning on or after January  
140 1, 1996, the limitation on compensation may not be less than the  
141 maximum compensation amount that was allowed to be taken into  
142 account under the plan in effect on July 1, 1993, which  
143 limitation shall be adjusted for changes in the cost of living



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144 since 1989 in the manner provided by Internal Revenue Code s.  
145 401(a)(17)(1991).

146 ~~(7)-(4)~~ "Creditable service" or "credited service" means the  
147 aggregate number of years of service, and fractional parts of  
148 years of service, of any firefighter, omitting intervening years  
149 and fractional parts of years when such firefighter may not have  
150 been employed by the municipality or special fire control  
151 district, subject to the following conditions:

152 (a) ~~A~~ ~~NE~~ firefighter may not ~~will~~ receive credit for years  
153 or fractional parts of years of service if he or she has  
154 withdrawn his or her contributions to the fund for those years  
155 or fractional parts of years of service, unless the firefighter  
156 repays into the fund the amount he or she has withdrawn, plus  
157 interest determined by the board. The member shall have at least  
158 90 days after his or her reemployment to make repayment.

159 (b) A firefighter may voluntarily leave his or her  
160 contributions in the fund for ~~a period of~~ 5 years after leaving  
161 the employ of the fire department, pending the possibility of  
162 being rehired by the same department, without losing credit for  
163 the time he or she has participated actively as a firefighter.  
164 If the firefighter is not reemployed as a firefighter, with the  
165 same department, within 5 years, his or her contributions shall  
166 be returned without interest.

167 (c) Credited service under this chapter shall be provided  
168 only for service as a firefighter, ~~as defined in subsection (8),~~  
169 or for military service and does not include credit for any  
170 other type of service. A municipality ~~may~~, by local ordinance,  
171 or a special fire control district ~~may~~, by resolution, may  
172 provide for the purchase of credit for military service prior to



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173 employment as well as for prior service as a firefighter for  
174 some other employer as long as a firefighter is not entitled to  
175 receive a benefit for such prior service ~~as a firefighter~~. For  
176 purposes of determining credit for prior service as a  
177 firefighter, in addition to service as a firefighter in this  
178 state, credit may be given for federal, other state, or county  
179 service if the prior service is recognized by the Division of  
180 State Fire Marshal as provided under chapter 633, or the  
181 firefighter provides proof to the board of trustees that his or  
182 her service is equivalent to the service required to meet the  
183 definition of a firefighter under subsection (12) ~~(8)~~.

184 (8) ~~(5)~~ "Deferred Retirement Option Plan" or "DROP" means a  
185 local law plan retirement option in which a firefighter may  
186 elect to participate. A firefighter may retire for all purposes  
187 of the plan and defer receipt of retirement benefits into a DROP  
188 account while continuing employment with his or her employer.  
189 However, a firefighter who enters ~~the~~ DROP and who is otherwise  
190 eligible to participate ~~may shall not thereby~~ be precluded from  
191 participating, or continuing to participate, in a supplemental  
192 plan in existence on, or created after, March 12, 1999 ~~the~~  
193 ~~effective date of this act.~~

194 (9) "Defined contribution plan" means the component of a  
195 local law plan to which deposits are made to provide benefits  
196 for firefighters, or for firefighters and police officers if  
197 both are included, under this chapter. Such component is an  
198 element of a local law plan and exists in conjunction with the  
199 defined benefit component that meets the base benefits and  
200 minimum standards of this chapter. The retirement benefits of  
201 the defined contribution plan shall be provided through



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202 individual member accounts in accordance with the applicable  
203 provisions of the Internal Revenue Code and related regulations  
204 and are limited to the contributions made into each member's  
205 account and the actual accumulated earnings, net of expenses,  
206 earned on the member's account.

207 (10) ~~(6)~~ "Division" means the Division of Retirement of the  
208 Department of Management Services.

209 (11) ~~(7)~~ "Enrolled actuary" means an actuary who is enrolled  
210 under Subtitle C of Title III of the Employee Retirement Income  
211 Security Act of 1974 and who is a member of the Society of  
212 Actuaries or the American Academy of Actuaries.

213 (12) ~~(8)~~ (a) "Firefighter" means any person employed solely  
214 by a constituted fire department of any municipality or special  
215 fire control district who is certified as a firefighter as a  
216 condition of employment in accordance with s. 633.35 and whose  
217 duty it is to extinguish fires, to protect life, or to protect  
218 property. The term includes all certified, supervisory, and  
219 command personnel whose duties include, in whole or in part, the  
220 supervision, training, guidance, and management responsibilities  
221 of full-time firefighters, part-time firefighters, or auxiliary  
222 firefighters but does not include part-time firefighters or  
223 auxiliary firefighters. However, for purposes of this chapter  
224 only, the term also includes public safety officers who are  
225 responsible for performing both police and fire services, who  
226 are certified as police officers or firefighters, and who are  
227 certified by their employers to the Chief Financial Officer as  
228 participating in this chapter before October 1, 1979. Effective  
229 October 1, 1979, public safety officers who have not been  
230 certified as participating in this chapter are considered police



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231 officers for retirement purposes and are eligible to participate  
232 in chapter 185. Any plan may provide that the fire chief has an  
233 option to participate, or not, in that plan.

234 (b) "Volunteer firefighter" means any person whose name is  
235 carried on the active membership roll of a constituted volunteer  
236 fire department or a combination of a paid and volunteer fire  
237 department of any municipality or special fire control district  
238 and whose duty it is to extinguish fires, to protect life, and  
239 to protect property. Compensation for services rendered by a  
240 volunteer firefighter shall not disqualify him or her as a  
241 volunteer. A person shall not be disqualified as a volunteer  
242 firefighter solely because he or she has other gainful  
243 employment. Any person who volunteers assistance at a fire but  
244 is not an active member of a department described herein is not  
245 a volunteer firefighter within the meaning of this paragraph.

246 (13)(9) "Firefighters' Pension Trust Fund" means a trust  
247 fund, by whatever name known, as provided under s. 175.041, for  
248 the purpose of assisting municipalities and special fire control  
249 districts in establishing and maintaining a retirement plan for  
250 firefighters.

251 (14)(10) "Local law municipality" is any municipality in  
252 which ~~there exists~~ a local law plan exists.

253 (15)(11) "Local law plan" means a retirement defined  
254 benefit pension plan, which includes both a defined benefit plan  
255 component and a defined contribution plan component, for  
256 firefighters, or for firefighters or police officers if both are  
257 ~~where~~ included, as described in s. 175.351, established by  
258 municipal ordinance, special district resolution, or special act  
259 of the Legislature, which ~~enactment~~ sets forth all plan



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260 provisions. Local law plan provisions may vary from the  
261 provisions of this chapter ~~if the base, provided that required~~  
262 ~~minimum~~ benefits and minimum standards of this chapter are met.  
263 ~~However,~~ any such variance must ~~shall~~ provide a greater benefit  
264 for firefighters. Actuarial valuations of local law plans shall  
265 be conducted by an enrolled actuary as provided in s.  
266 175.261(2).

267 (16)(12) "Local law special fire control district" is any  
268 special fire control district in which ~~there exists~~ a local law  
269 plan exists.

270 (17) "Long-term funded ratio" or "funded ratio" means the  
271 ratio of the actuarial assets of the plan to the actuarial  
272 liabilities of the plan as reported in the most recent actuarial  
273 valuation of the plan and deemed to be in compliance with  
274 chapter 112 by the Department of Management Services.

275 (18)(13) "Property insurance" means property insurance as  
276 defined in s. 624.604 and covers real and personal property  
277 within the corporate limits of ~~a any~~ municipality, or within the  
278 boundaries of ~~a any~~ special fire control district, within the  
279 state. "Multiple peril" means a combination or package policy  
280 that includes both property and casualty coverage for a single  
281 premium.

282 (19)(14) "Retiree" or "retired firefighter" means a  
283 firefighter who has entered retirement status. For the purposes  
284 of a plan that includes a Deferred Retirement Option Plan  
285 (DROP), a firefighter who enters ~~the~~ DROP is ~~shall be~~ considered  
286 a retiree for all purposes of the plan. However, a firefighter  
287 who enters ~~the~~ DROP and who is otherwise eligible to participate  
288 may ~~shall not thereby~~ be precluded from participating, or



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289 continuing to participate, in a supplemental plan in existence  
290 on, or created after, March 12, 1999 ~~the effective date of this~~  
291 ~~act.~~

292 ~~(20)(15)~~ "Retirement" means a firefighter's separation from  
293 city or fire district employment as a firefighter with immediate  
294 eligibility for ~~receipt of~~ benefits under the plan. For purposes  
295 of a plan that includes a Deferred Retirement Option Plan  
296 (DROP), "retirement" means the date a firefighter enters ~~the~~  
297 DROP.

298 (21) "Special benefits" means benefits provided in a  
299 defined contribution plan for firefighters.

300 ~~(22)(16)~~ "Special fire control district" means a special  
301 district, as defined in s. 189.403~~(1)~~, established for the  
302 purposes of extinguishing fires, protecting life, and protecting  
303 property within the incorporated or unincorporated portions of a  
304 ~~any~~ county or combination of counties, or within any combination  
305 of incorporated and unincorporated portions of a any county or  
306 combination of counties. The term does not include any dependent  
307 or independent special district, as those terms are defined in  
308 s. 189.403~~(2) and (3)~~, ~~respectively~~, the employees of which are  
309 members of the Florida Retirement System pursuant to s.  
310 121.051(1) or (2).

311 ~~(23)(17)~~ "Supplemental plan" means a plan to which deposits  
312 are made to provide extra benefits for firefighters, or for  
313 firefighters and police officers if both are ~~where~~ included,  
314 under this chapter. Such a plan is an element of a local law  
315 plan and exists in conjunction with a defined benefit component  
316 ~~plan~~ that meets the base minimum benefits and minimum standards  
317 of this chapter.



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318 ~~(24)(18)~~ "Supplemental plan municipality" means a any local  
319 law municipality in which ~~there existed~~ a supplemental plan  
320 existed, of any type or nature, as of December 1, 2000.

321 Section 3. Paragraph (b) of subsection (7) of section  
322 175.071, Florida Statutes, is amended to read:

323 175.071 General powers and duties of board of trustees.—For  
324 any municipality, special fire control district, chapter plan,  
325 local law municipality, local law special fire control district,  
326 or local law plan under this chapter:

327 (7) To assist the board in meeting its responsibilities  
328 under this chapter, the board, if it so elects, may:

329 (b) Employ an independent enrolled actuary, as defined in  
330 s. 175.032~~(7)~~, at the pension fund's expense.

331  
332 If the board chooses to use the municipality's or special  
333 district's legal counsel or actuary, or chooses to use any of  
334 the municipality's or special district's other professional,  
335 technical, or other advisers, it must do so only under terms and  
336 conditions acceptable to the board.

337 Section 4. Paragraphs (d) through (g) of subsection (1) of  
338 section 175.091, Florida Statutes, are amended, and a new  
339 paragraph (e) is added to that subsection, to read:

340 175.091 Creation and maintenance of fund.—For any  
341 municipality, special fire control district, chapter plan, local  
342 law municipality, local law special fire control district, or  
343 local law plan under this chapter:

344 (1) The firefighters' pension trust fund in each  
345 municipality and in each special fire control district shall be  
346 created and maintained in the following manner:



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347 (d) By mandatory payment by the municipality or special  
348 fire control district of a sum equal to the normal cost of and  
349 the amount required to fund any actuarial deficiency shown by an  
350 actuarial valuation as provided in part VII of chapter 112 after  
351 taking into account the amounts described in paragraphs (b),  
352 (c), (f), (g), and (h) and the amounts of the tax proceeds  
353 described in paragraph (a) that must be used to fund the normal  
354 costs of base benefits and other pension benefits.

355 (e) For local law plans, and in addition to the mandatory  
356 payment described in paragraph (d), by mandatory payment by the  
357 municipality or special fire control district of the amount  
358 specified in s. 175.351(3) if the long-term funded ratio of the  
359 plan is less than 80 percent.

360 (f) ~~(e)~~ By all gifts, bequests, and devises when donated to  
361 the fund.

362 (g) ~~(f)~~ By all accretions to the fund by way of interest or  
363 dividends on bank deposits, or otherwise.

364 (h) ~~(g)~~ By all other sources or income now or hereafter  
365 authorized by law for the augmentation of such firefighters'  
366 pension trust fund.

367  
368 Nothing in this section shall be construed to require adjustment  
369 of member contribution rates in effect on the date this act  
370 becomes a law, including rates that exceed 5 percent of salary,  
371 provided that such rates are at least one-half of 1 percent of  
372 salary.

373 Section 5. Section 175.351, Florida Statutes, is amended to  
374 read:

375 175.351 Municipalities and special fire control districts



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376 having their own pension plans for firefighters. ~~For any~~  
377 ~~municipality, special fire control district, local law~~  
378 ~~municipality, local law special fire control district, or local~~  
379 ~~law plan under this chapter,~~ In order for a municipality or  
380 municipalities and special fire control district that has its  
381 districts with their own pension plan plans for firefighters, or  
382 for firefighters and police officers if both are included, to  
383 participate in the distribution of the tax fund established  
384 under pursuant to s. 175.101, a local law plan and its plan  
385 sponsor plans must meet the base minimum benefits and minimum  
386 standards set forth in this chapter.

387 (1) If a municipality has a pension plan for firefighters,  
388 or a pension plan for firefighters and police officers if both  
389 are included, which in the opinion of the division meets the  
390 base minimum benefits and minimum standards set forth in this  
391 chapter, the board of trustees of the pension plan, as approved  
392 by a majority of firefighters of the municipality, must may  
393 ~~(a)~~ place the income from the premium tax in s. 175.101 in  
394 such ~~pension~~ plan for the sole and exclusive use of its  
395 firefighters, or for firefighters and police officers if both  
396 are included, where it shall become an integral part of that  
397 ~~pension~~ plan and ~~shall~~ be used to fund benefits for firefighters  
398 as follows:

399 (a) The base premium tax revenues must be used to fund base  
400 benefits.

401 (b) Of the premium tax revenues received that are in excess  
402 of the amount received for the 2012 calendar year, and any  
403 accumulations of additional premium tax revenues that have not  
404 been applied to fund extra benefits:



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405 1. If the plan has a long-term funded ratio of less than 80  
406 percent:

407 a. Fifty percent must be used as additional contributions  
408 to pay the plan's actuarial deficiency and may not be considered  
409 in the determination of the mandatory payment described in s.  
410 175.091(1)(d);

411 b. Twenty-five percent must be used to fund base benefits;  
412 and

413 c. Twenty-five percent must be placed in a defined  
414 contribution plan to fund special benefits.

415 2. If the plan has a long-term funded ratio of 80 percent  
416 or greater:

417 a. Fifty percent must be used to fund base benefits; and

418 b. Fifty percent must be placed in a defined contribution  
419 plan to fund special benefits.

420 (c) Additional premium tax revenues not described in  
421 paragraph (b) must be used to fund benefits that were not  
422 included in the base benefits to pay extra benefits to the  
423 firefighters included in that pension plan; or

424 ~~(b) Place the income from the premium tax in s. 175.101 in~~  
425 ~~a separate supplemental plan to pay extra benefits to~~  
426 ~~firefighters, or to firefighters and police officers if~~  
427 ~~included, participating in such separate supplemental plan.~~

428 (2) Insurance premium tax revenues may not be used to fund  
429 benefits provided in a defined benefit plan which were not  
430 provided by the plan as of March 1, 2013.

431 (3) If a plan offers benefits in excess of its base  
432 benefits, such benefits may be reduced if the plan continues to  
433 meet the base benefits of the plan and the minimum standards set



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434 forth in this chapter. The amount of insurance premium tax  
435 revenues previously used to fund benefits in excess of the  
436 plan's base benefits before the reduction must be used as  
437 provided in subsection (1)(b). Twenty-five percent of the amount  
438 of any mandatory contribution paid by the municipality or  
439 special fire control district which was previously used to fund  
440 extra benefits before the reduction must be used as additional  
441 contributions as specified in s. 175.091 to fund the plan's  
442 actuarial deficiency.

443 ~~(4)(2) The premium tax provided by this chapter shall in~~  
444 ~~all cases be used in its entirety to provide retirement extra~~  
445 ~~benefits to firefighters, or to firefighters and police officers~~  
446 ~~if both are included. However, local law plans in effect on~~  
447 ~~October 1, 1998, must comply with the minimum benefit provisions~~  
448 ~~of this chapter only to the extent that additional premium tax~~  
449 ~~revenues become available to incrementally fund the cost of such~~  
450 ~~compliance as provided in s. 175.162(2)(a). If a plan is in~~  
451 ~~compliance with such minimum benefit provisions, as subsequent~~  
452 ~~additional premium tax revenues become available, they must be~~  
453 ~~used to provide extra benefits. Local law plans created by~~  
454 ~~special act before May 27, 1939, are deemed to comply with this~~  
455 ~~chapter. For the purpose of this chapter, the term:~~

456 ~~(a) "Additional premium tax revenues" means revenues~~  
457 ~~received by a municipality or special fire control district~~  
458 ~~pursuant to s. 175.121 which exceed that amount received for~~  
459 ~~calendar year 1997.~~

460 ~~(b) "Extra benefits" means benefits in addition to or~~  
461 ~~greater than those provided to general employees of the~~  
462 ~~municipality and in addition to those in existence for~~



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463 ~~firefighters on March 12, 1999.~~

464 ~~(5)(3)~~ A retirement plan or amendment to a retirement plan  
465 may not be proposed for adoption unless the proposed plan or  
466 amendment contains an actuarial estimate of the costs involved.  
467 Such proposed plan or proposed plan change may not be adopted  
468 without the approval of the municipality, special fire control  
469 district, or, where permitted, the Legislature. Copies of the  
470 proposed plan or proposed plan change and the actuarial impact  
471 statement of the proposed plan or proposed plan change shall be  
472 furnished to the division before the last public hearing  
473 thereon. Such statement must also indicate whether the proposed  
474 plan or proposed plan change is in compliance with s. 14, Art. X  
475 of the State Constitution and those provisions of part VII of  
476 chapter 112 which are not expressly provided in this chapter.  
477 Notwithstanding any other provision, only those local law plans  
478 created by special act of legislation before May 27, 1939, are  
479 deemed to meet the base minimum benefits and minimum standards  
480 only in this chapter.

481 ~~(6)(4)~~ Notwithstanding any other provision, with respect to  
482 any supplemental plan municipality:

483 (a) A local law plan and a supplemental plan may continue  
484 to use their definition of compensation or salary in existence  
485 on March 12, 1999.

486 (b) Section 175.061(1)(b) does not apply, and a local law  
487 plan and a supplemental plan shall continue to be administered  
488 by a board or boards of trustees numbered, constituted, and  
489 selected as the board or boards were numbered, constituted, and  
490 selected on December 1, 2000.

491 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~



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492 ~~have been made.~~

493 ~~(7)(5)~~ The retirement plan setting forth the benefits and  
494 the trust agreement, if any, covering the duties and  
495 responsibilities of the trustees and the regulations of the  
496 investment of funds must be in writing, and copies made  
497 available to the participants and to the general public.

498 (8) In addition to the defined benefit component of the  
499 local law plan, each plan sponsor must have a defined  
500 contribution plan component within the local law plan by October  
501 1, 2013, or upon the creation date of a new participating plan.  
502 However, the plan sponsor of any plan established by special act  
503 of the Legislature has until July 1, 2014, to create a defined  
504 contribution component within the plan.

505 Section 6. Subsection (2) of section 185.01, Florida  
506 Statutes, is amended to read:

507 185.01 Legislative declaration.—

508 (2) This chapter hereby establishes, for all municipal  
509 pension plans ~~now or hereinafter~~ provided for under this  
510 chapter, including chapter plans and local law plans, base  
511 minimum benefits and minimum standards for the operation and  
512 funding of such plans, which must be met as a condition  
513 precedent to the plan or plan sponsor receiving a distribution  
514 of insurance premium tax revenues under s. 185.10 hereinafter  
515 referred to as municipal police officers' retirement trust  
516 funds. The base minimum benefits and minimum standards for each  
517 plan as set forth in this chapter may not be diminished by local  
518 ordinance or by special act of the Legislature, or ~~nor may the~~  
519 minimum benefits or minimum standards be reduced or offset by  
520 any other local, state, or federal plan that may include police



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521 officers in its operation, except as provided under s. 112.65.  
522 Section 7. Section 185.02, Florida Statutes, is amended to  
523 read:

524 185.02 Definitions.—For any municipality, chapter plan,  
525 local law municipality, or local law plan under this chapter,  
526 the term following words and phrases as used in this chapter  
527 ~~shall have the following meanings, unless a different meaning is~~  
528 ~~plainly required by the context:~~

529 (1) “Additional premium tax revenues” means revenues  
530 received by a municipality pursuant to s. 185.10 which exceed  
531 base premium tax revenues.

532 (2)(1) “Average final compensation” means one-twelfth of  
533 the average annual compensation of the 5 best years of the last  
534 10 years of creditable service prior to retirement, termination,  
535 or death.

536 (3) “Base benefits” means the level of benefits in  
537 existence for police officers on March 12, 1999.

538 (4) “Base premium tax revenues” means revenues received by  
539 a municipality pursuant to s. 185.10 equal to the amount of such  
540 revenues received for calendar year 1997.

541 (5)(2) “Casualty insurance” means automobile public  
542 liability and property damage insurance to be applied at the  
543 place of residence of the owner, or if the subject is a  
544 commercial vehicle, to be applied at the place of business of  
545 the owner; automobile collision insurance; fidelity bonds;  
546 burglary and theft insurance; and plate glass insurance.  
547 “Multiple peril” means a combination or package policy that  
548 includes both property coverage and casualty coverage for a  
549 single premium.



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550 (6)(3) “Chapter plan” means a separate defined benefit  
551 pension plan for police officers which incorporates by reference  
552 the provisions of this chapter and has been adopted by the  
553 governing body of a municipality as provided in s. 185.08.  
554 Except as may be specifically authorized in this chapter, the  
555 provisions of a chapter plan may not differ from the plan  
556 provisions set forth in ss. 185.01-185.341 and 185.37-185.39.  
557 Actuarial valuations of chapter plans shall be conducted by the  
558 division as provided by s. 185.221(1)(b).

559 (7)(4) “Compensation” or “salary” means, for  
560 noncollectively bargained service earned before July 1, 2011, or  
561 for service earned under collective bargaining agreements in  
562 place before July 1, 2011, the total cash remuneration including  
563 “overtime” paid by the primary employer to a police officer for  
564 services rendered, but not including any payments for extra duty  
565 or special detail work performed on behalf of a second party  
566 employer. ~~A local law plan may limit the amount of overtime~~  
567 ~~payments which can be used for retirement benefit calculation~~  
568 ~~purposes; however, such overtime limit may not be less than 300~~  
569 ~~hours per officer per calendar year.~~ For noncollectively  
570 bargained service earned on or after July 1, 2011, or for  
571 service earned under collective bargaining agreements entered  
572 into on or after July 1, 2011, the term has the same meaning  
573 except that when calculating retirement benefits, up to 300  
574 hours per year in overtime compensation may be included as  
575 specified in the plan or collective bargaining agreement, but  
576 payments for accrued unused sick or annual leave may not be  
577 included.

578 (a) Any retirement trust fund or plan that meets the



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579 requirements of this chapter does not, solely by virtue of this  
580 subsection, reduce or diminish the monthly retirement income  
581 otherwise payable to each police officer covered by the  
582 retirement trust fund or plan.

583 (b) The member's compensation or salary contributed as  
584 employee-elective salary reductions or deferrals to any salary  
585 reduction, deferred compensation, or tax-sheltered annuity  
586 program authorized under the Internal Revenue Code shall be  
587 deemed to be the compensation or salary the member would receive  
588 if he or she were not participating in such program and ~~shall be~~  
589 treated as compensation for retirement purposes under this  
590 chapter.

591 (c) For any person who first becomes a member in any plan  
592 year beginning on or after January 1, 1996, compensation for  
593 that plan year may not include any amounts in excess of the  
594 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
595 the Omnibus Budget Reconciliation Act of 1993, which limitation  
596 of \$150,000 shall be adjusted as required by federal law for  
597 qualified government plans and ~~shall be~~ further adjusted for  
598 changes in the cost of living in the manner provided by Internal  
599 Revenue Code s. 401(a)(17)(B). For any person who first became a  
600 member before the first plan year beginning on or after January  
601 1, 1996, the limitation on compensation may not be less than the  
602 maximum compensation amount that was allowed to be taken into  
603 account under the plan as in effect on July 1, 1993, which  
604 limitation shall be adjusted for changes in the cost of living  
605 since 1989 in the manner provided by Internal Revenue Code s.  
606 401(a)(17)(1991).

607 ~~(8)(5)~~ "Creditable service" or "credited service" means the



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608 aggregate number of years of service and fractional parts of  
609 years of service of any police officer, omitting intervening  
610 years and fractional parts of years when such police officer may  
611 not have been employed by the municipality subject to the  
612 following conditions:

613 (a) ~~A~~ ~~Ne~~ police officer may not ~~will~~ receive credit for  
614 years or fractional parts of years of service if he or she has  
615 withdrawn his or her contributions to the fund for those years  
616 or fractional parts of years of service, unless the police  
617 officer repays into the fund the amount he or she has withdrawn,  
618 plus interest as determined by the board. The member shall have  
619 at least 90 days after his or her reemployment to make  
620 repayment.

621 (b) A police officer may voluntarily leave his or her  
622 contributions in the fund for ~~a period of~~ 5 years after leaving  
623 the employ of the police department, pending the possibility of  
624 his or her being rehired by the same department, without losing  
625 credit for the time he or she has participated actively as a  
626 police officer. If he or she is not reemployed as a police  
627 officer with the same department within 5 years, his or her  
628 contributions shall be returned to him or her without interest.

629 (c) Credited service under this chapter shall be provided  
630 only for service as a police officer, ~~as defined in subsection~~  
631 ~~(11)~~, or for military service and may not include credit for any  
632 other type of service. A municipality ~~may~~, by local ordinance,  
633 may provide for the purchase of credit for military service  
634 occurring before employment as well as prior service as a police  
635 officer for some other employer as long as the police officer is  
636 not entitled to receive a benefit for such ~~other~~ prior service



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637 ~~as a police officer.~~ For purposes of determining credit for  
638 prior service, in addition to service as a police officer in  
639 this state, credit may be given for federal, other state, or  
640 county service as long as such service is recognized by the  
641 Criminal Justice Standards and Training Commission within the  
642 Department of Law Enforcement as provided under chapter 943 or  
643 the police officer provides proof to the board of trustees that  
644 such service is equivalent to the service required to meet the  
645 definition of a police officer under subsection (16) ~~(11)~~.

646 (d) In determining the creditable service of a ~~any~~ police  
647 officer, credit for up to 5 years of the time spent in the  
648 military service of the Armed Forces of the United States shall  
649 be added to the years of actual service, if:

650 1. The police officer is in the active employ of the  
651 municipality ~~before~~ prior to such service and leaves a position,  
652 other than a temporary position, for the purpose of voluntary or  
653 involuntary service in the Armed Forces of the United States.

654 2. The police officer is entitled to reemployment under ~~the~~  
655 ~~provisions of~~ the Uniformed Services Employment and Reemployment  
656 Rights Act.

657 3. The police officer returns to his or her employment as a  
658 police officer of the municipality within 1 year ~~after~~ ~~from~~ the  
659 date of his or her release from such active service.

660 ~~(9)(6)~~ "Deferred Retirement Option Plan" or "DROP" means a  
661 local law plan retirement option in which a police officer may  
662 elect to participate. A police officer may retire for all  
663 purposes of the plan and defer receipt of retirement benefits  
664 into a DROP account while continuing employment with his or her  
665 employer. However, a police officer who enters the DROP and who



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666 is otherwise eligible to participate ~~may shall not thereby~~ be  
667 precluded from participating, or continuing to participate, in a  
668 supplemental plan in existence on, or created after, March 12,  
669 1999 ~~the effective date of this act.~~

670 (10) "Defined contribution plan" means the component of a  
671 local law plan to which deposits are made to provide benefits  
672 for police officers, or for police officers and firefighters if  
673 both are included. Such component is an element of a local law  
674 plan and exists in conjunction with the defined benefit  
675 component that meets the base benefits and minimum standards of  
676 this chapter. The retirement benefits of the defined  
677 contribution plan shall be provided through individual member  
678 accounts, in accordance with the applicable provisions of the  
679 Internal Revenue Code and related regulations, and are limited  
680 to the contributions made into each member's account and the  
681 actual accumulated earnings, net of expenses, earned on the  
682 member's account.

683 ~~(11)(7)~~ "Division" means the Division of Retirement of the  
684 Department of Management Services.

685 ~~(12)(8)~~ "Enrolled actuary" means an actuary who is enrolled  
686 under Subtitle C of Title III of the Employee Retirement Income  
687 Security Act of 1974 and who is a member of the Society of  
688 Actuaries or the American Academy of Actuaries.

689 ~~(13)(9)~~ "Local law municipality" is any municipality in  
690 which ~~there exists~~ a local law plan exists.

691 ~~(14)(10)~~ "Local law plan" means a retirement defined  
692 benefit pension plan, which includes both a defined benefit plan  
693 component and a defined contribution plan component, for police  
694 officers, or for police officers and firefighters if both are,



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695 ~~where~~ included, as described in s. 185.35, established by  
696 municipal ordinance or special act of the Legislature, which  
697 ~~enactment~~ sets forth all plan provisions. Local law plan  
698 provisions may vary from the provisions of this chapter if the  
699 base, provided that required minimum benefits and minimum  
700 standards of this chapter are met. However, any such variance  
701 must shall provide a greater benefit for police officers.  
702 Actuarial valuations of local law plans shall be conducted by an  
703 enrolled actuary as provided in s. 185.221(2)(b).

704 (15) "Long-term funded ratio" or "funded ratio" means the  
705 ratio of the actuarial assets of the plan to the actuarial  
706 liabilities of the plan as reported in the most recent actuarial  
707 valuation of the plan and deemed to be in compliance with  
708 chapter 112 by the Department of Management Services.

709 (16)~~(11)~~ "Police officer" means any person who is elected,  
710 appointed, or employed full time by a any municipality, who is  
711 certified or required to be certified as a law enforcement  
712 officer in compliance with s. 943.1395, who is vested with  
713 authority to bear arms and make arrests, and whose primary  
714 responsibility is the prevention and detection of crime or the  
715 enforcement of the penal, criminal, traffic, or highway laws of  
716 the state. The term This definition includes all certified  
717 supervisory and command personnel whose duties include, in whole  
718 or in part, the supervision, training, guidance, and management  
719 responsibilities of full-time law enforcement officers, part-  
720 time law enforcement officers, or auxiliary law enforcement  
721 officers, but does not include part-time law enforcement  
722 officers or auxiliary law enforcement officers as those terms  
723 ~~the same~~ are defined in s. 943.10~~(6)~~ and ~~(8)~~, respectively. For



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724 the purposes of this chapter only, the term also includes  
725 ~~"police officer"~~ also shall include a public safety officer who  
726 is responsible for performing both police and fire services. Any  
727 plan may provide that the police chief shall have the an option  
728 to participate, or not, in that plan.

729 (17)~~(12)~~ "Police Officers' Retirement Trust Fund" means a  
730 trust fund, by whatever name known, as provided under s. 185.03  
731 for the purpose of assisting municipalities in establishing and  
732 maintaining a retirement plan for police officers.

733 (18)~~(13)~~ "Retiree" or "retired police officer" means a  
734 police officer who has entered retirement status. For the  
735 purposes of a plan that includes a Deferred Retirement Option  
736 Plan (DROP), a police officer who enters ~~the DROP is shall be~~  
737 considered a retiree for all purposes of the plan. However, a  
738 police officer who enters the DROP and who is otherwise eligible  
739 to participate may shall not ~~thereby~~ be precluded from  
740 participating, or continuing to participate, in a supplemental  
741 plan in existence on, or created after, March 12, 1999 the  
742 ~~effective date of this act.~~

743 (19)~~(14)~~ "Retirement" means a police officer's separation  
744 from city employment as a police officer with immediate  
745 eligibility for ~~receipt of~~ benefits under the plan. For purposes  
746 of a plan that includes a Deferred Retirement Option Plan  
747 (DROP), "retirement" means the date a police officer enters the  
748 DROP.

749 (20) "Special benefits" means benefits provided in a  
750 defined contribution plan for police officers.

751 (21)~~(15)~~ "Supplemental plan" means a plan to which deposits  
752 of the premium tax moneys as provided in s. 185.08 are made to



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753 provide extra benefits to police officers, or police officers  
754 and firefighters ~~if both are where~~ included, under this chapter.  
755 Such a plan is an element of a local law plan and exists in  
756 conjunction with a defined benefit component plan that meets the  
757 base minimum benefits and minimum standards of this chapter.

758 ~~(22)(16)~~ "Supplemental plan municipality" means any local  
759 law municipality in which ~~there existed~~ a supplemental plan  
760 existed as of December 1, 2000.

761 Section 8. Paragraph (b) of subsection (6) of section  
762 185.06, Florida Statutes, is amended to read:

763 185.06 General powers and duties of board of trustees.—For  
764 any municipality, chapter plan, local law municipality, or local  
765 law plan under this chapter:

766 (6) To assist the board in meeting its responsibilities  
767 under this chapter, the board, if it so elects, may:

768 (b) Employ an independent enrolled actuary, as defined in  
769 s. 185.02~~(4)~~, at the pension fund's expense.

770  
771 If the board chooses to use the municipality's or special  
772 district's legal counsel or actuary, or chooses to use any of  
773 the municipality's other professional, technical, or other  
774 advisers, it must do so only under terms and conditions  
775 acceptable to the board.

776 Section 9. Paragraphs (d) through (g) of subsection (1) of  
777 section 185.07, Florida Statutes, are amended, and a new  
778 paragraph (e) is added to that subsection, to read:

779 185.07 Creation and maintenance of fund.—For any  
780 municipality, chapter plan, local law municipality, or local law  
781 plan under this chapter:



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782 (1) The municipal police officers' retirement trust fund in  
783 each municipality described in s. 185.03 shall be created and  
784 maintained in the following manner:

785 (d) By payment by the municipality or other sources of a  
786 sum equal to the normal cost and the amount required to fund any  
787 actuarial deficiency shown by an actuarial valuation as provided  
788 in part VII of chapter 112, after taking into account the  
789 amounts described in paragraphs (b), (c), (f), (g), and (h) and  
790 the amounts of the tax proceeds described in paragraph (a) that  
791 must be used to fund the normal costs of base benefits and other  
792 pension benefits.

793 (e) For local law plans, and in addition to the mandatory  
794 payment described in paragraph (d), by mandatory payment by the  
795 municipality of the amount specified in s. 185.35(3) if the  
796 long-term funded ratio of the plan is less than 80 percent.

797 ~~(f)(e)~~ By all gifts, bequests and devises when donated to  
798 the fund.

799 ~~(g)(f)~~ By all accretions to the fund by way of interest or  
800 dividends on bank deposits or otherwise.

801 ~~(h)(g)~~ By all other sources of income now or hereafter  
802 authorized by law for the augmentation of such municipal police  
803 officers' retirement trust fund.

804  
805 Nothing in this section shall be construed to require adjustment  
806 of member contribution rates in effect on the date this act  
807 becomes a law, including rates that exceed 5 percent of salary,  
808 provided that such rates are at least one-half of 1 percent of  
809 salary.

810 Section 10. Section 185.35, Florida Statutes, is amended to



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811 read:

812 185.35 Municipalities having their own pension plans for  
813 police officers. ~~For any municipality, chapter plan, local law~~  
814 ~~municipality, or local law plan under this chapter,~~ In order for  
815 a municipality municipalities with its their own retirement plan  
816 ~~pension plans~~ for police officers, or for police officers and  
817 firefighters if both are included, to participate in the  
818 distribution of the tax fund established under pursuant to s.  
819 185.08, a local law plan and its plan sponsor plans must meet  
820 the base minimum benefits and minimum standards set forth in  
821 this chapter:

822 (1) If a municipality has a retirement pension plan for  
823 police officers, or for police officers and firefighters if both  
824 are included, which, in the opinion of the division, meets the  
825 base minimum benefits and minimum standards set forth in this  
826 chapter, the board of trustees of the pension plan, as approved  
827 by a majority of police officers of the municipality, must may

828 ~~(a)~~ place the income from the premium tax in s. 185.08 in  
829 such ~~pension~~ plan for the sole and exclusive use of its police  
830 officers, or its police officers and firefighters if included,  
831 where it shall become an integral part of that ~~pension~~ plan and  
832 ~~shall~~ be used to fund benefits for police officers as follows:

833 (a) The base premium tax revenues must be used to fund base  
834 benefits.

835 (b) Of the premium tax revenues received that are in excess  
836 of the amount received for the 2012 calendar year, and any  
837 accumulations of additional premium tax revenues that have not  
838 been applied to fund extra benefits:

839 1. If the plan has a long-term funded ratio of less than 80



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840 percent:

841 a. Fifty percent must be used as additional contributions  
842 to pay the plan's actuarial deficiency and may not be considered  
843 in the determination of the mandatory payment described in s.  
844 185.07(1)(d);

845 b. Twenty-five percent must be used to fund base benefits;  
846 and

847 c. Twenty-five percent must be placed in a defined  
848 contribution plan to fund special benefits.

849 2. If the plan has a long-term funded ratio of 80 percent  
850 or greater:

851 a. Fifty percent must be used to fund base benefits; and

852 b. Fifty percent must be placed in a defined contribution  
853 plan to fund special benefits.

854 (c) Additional premium tax revenues not described in  
855 paragraph (b) must be used to fund benefits that were not  
856 included in the base benefits ~~pay extra benefits to the police~~  
857 officers included in that pension plan; or

858 ~~(b) May place the income from the premium tax in s. 185.08~~  
859 ~~in a separate supplemental plan to pay extra benefits to the~~  
860 ~~police officers, or police officers and firefighters if~~  
861 ~~included, participating in such separate supplemental plan.~~

862 (2) Insurance premium tax revenues may not be used to fund  
863 benefits provided in a defined benefit plan which were not  
864 provided by the plan as of March 1, 2013.

865 (3) If a plan offers benefits in excess of its base  
866 benefits, such benefits may be reduced if the plan continues to  
867 meet the base benefits of the plan and the minimum standards set  
868 forth in this chapter. The amount of insurance premium tax



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869 revenues previously used to fund benefits in excess of the  
870 plan's base benefits before the reduction must be used as  
871 provided in subsection (1)(b). Twenty-five percent of the amount  
872 of any mandatory contribution paid by the municipality or  
873 special fire control district which was previously used to fund  
874 extra benefits before the reduction must be used as additional  
875 contributions as specified in s. 185.07 to fund the plan's  
876 actuarial deficiency.

877 (4)(2) The premium tax provided by this chapter shall in  
878 all cases be used in its entirety to provide retirement extra  
879 benefits to police officers, or to police officers and  
880 firefighters if both are included. However, local law plans in  
881 effect on October 1, 1998, must comply with the minimum benefit  
882 provisions of this chapter only to the extent that additional  
883 premium tax revenues become available to incrementally fund the  
884 cost of such compliance as provided in s. 185.16(2). If a plan  
885 is in compliance with such minimum benefit provisions, as  
886 subsequent additional tax revenues become available, they shall  
887 be used to provide extra benefits. Local law plans created by  
888 special act before May 27, 1939, shall be deemed to comply with  
889 this chapter. For the purpose of this chapter, the term:

890 (a) "Additional premium tax revenues" means revenues  
891 received by a municipality pursuant to s. 185.10 which exceed  
892 the amount received for calendar year 1997.

893 (b) "Extra benefits" means benefits in addition to or  
894 greater than those provided to general employees of the  
895 municipality and in addition to those in existence for police  
896 officers on March 12, 1999.

897 (5)(3) A retirement plan or amendment to a retirement plan



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898 may not be proposed for adoption unless the proposed plan or  
899 amendment contains an actuarial estimate of the costs involved.  
900 Such proposed plan or proposed plan change may not be adopted  
901 without the approval of the municipality or, where permitted,  
902 the Legislature. Copies of the proposed plan or proposed plan  
903 change and the actuarial impact statement of the proposed plan  
904 or proposed plan change shall be furnished to the division  
905 before the last public hearing thereon. Such statement must also  
906 indicate whether the proposed plan or proposed plan change is in  
907 compliance with s. 14, Art. X of the State Constitution and  
908 those provisions of part VII of chapter 112 which are not  
909 expressly provided in this chapter. Notwithstanding any other  
910 provision, only those local law plans created by special act of  
911 legislation before May 27, 1939, are deemed to meet the base  
912 minimum benefits and minimum standards only in this chapter.

913 (6)(4) Notwithstanding any other provision, with respect to  
914 any supplemental plan municipality:

915 (a) Section 185.02(7)(a) 185.02(4)(a) does not apply, and a  
916 local law plan and a supplemental plan may continue to use their  
917 definition of compensation or salary in existence on March 12,  
918 1999.

919 (b) A local law plan and a supplemental plan must continue  
920 to be administered by a board or boards of trustees numbered,  
921 constituted, and selected as the board or boards were numbered,  
922 constituted, and selected on December 1, 2000.

923 (c) The election set forth in paragraph (1)(b) is deemed to  
924 have been made.

925 (7)(5) The retirement plan setting forth the benefits and  
926 the trust agreement, if any, covering the duties and



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927 responsibilities of the trustees and the regulations of the  
928 investment of funds must be in writing and copies made available  
929 to the participants and to the general public.

930 (8) In addition to the defined benefit component of the  
931 local law plan, each plan sponsor must have a defined  
932 contribution plan component within the local law plan by October  
933 1, 2013, or upon the creation date of a new participating plan.  
934 However, the plan sponsor of any plan established by special act  
935 of the Legislature has until July 1, 2014, to create a defined  
936 contribution component within the plan.

937 Section 11. The Legislature finds that a proper and  
938 legitimate state purpose is served when employees and retirees  
939 of the state and its political subdivisions, and the dependents,  
940 survivors, and beneficiaries of such employees and retirees, are  
941 extended the basic protections afforded by governmental  
942 retirement systems that provide fair and adequate benefits and  
943 that are managed, administered, and funded in an actuarially  
944 sound manner as required by s. 14, Article X of the State  
945 Constitution and part VII of chapter 112, Florida Statutes.  
946 Therefore, the Legislature determines and declares that this act  
947 fulfills an important state interest.

948 Section 12. This act shall take effect July 1, 2013.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

**BILL:** CS/SB 458

**INTRODUCER:** Committee on Governmental Oversight and Accountability and Senator Ring

**SUBJECT:** Firefighter and Police Pension Plans

**DATE:** February 21, 2013      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	Fav/CS
2.	_____	_____	CA	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

CS/SB 458 substantially amends provisions specifying how insurance premium tax revenues must be used in police and firefighter pension plans. Plan benefits in existence in 1999 must be paid by the amount of premium tax revenues the plan sponsors received in 1997. Plans less than 80% funded must use 50% of their post-2012 increase in premium tax revenues, and accumulated premium tax revenues, to pay the plans actuarial deficiency. Twenty-five percent of the post-2012 increase must fund defined contribution benefits, and 25% must be used to fund base benefits. Plans funded greater than 80% must use half of the post-2012 increase in premium tax revenues for defined contribution benefits, and the other half for the base benefits. The increase in additional premium tax revenues between 1997 and 2012 must be used to fund any benefits that were not included in the base benefits of the plan.

The bill also clarifies that a maximum of 300 hours of overtime may be included for purposes of calculating municipal police pension plan benefits.

This bill substantially amends sections 175.021, 175.032, 175.071, 175.091, 175.351, 185.01, 185.02, 185.06, 185.07, and 185.35 of the Florida Statutes.

## II. Present Situation:

### The “Marvin B. Clayton Firefighters and Police Officers Pension Trust Fund” Acts

The Marvin B. Clayton Firefighters’ and Police Officers’ Pension Trust Fund Acts<sup>1</sup> declare a legitimate state purpose to provide a uniform retirement system for the benefit of firefighters and municipal police officers. All municipal and special district firefighters and all municipal police officers retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of firefighters’ and police officers’ pension trust funds.<sup>2</sup>

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive to cities—access to premium tax revenues—to encourage the establishment of firefighter retirement plans. Fourteen years later, the Legislature enacted chapter 185, F.S., which provides a similar funding mechanism for municipal police officers. 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 the normal cost of the plan.<sup>3</sup> To qualify for insurance premium tax dollars, plans must meet requirements found in chapters 175 and 185, F.S. Responsibility for overseeing and monitoring these plans is assigned to the Division of Retirement (“division”) in the Department of Management Services (DMS), but day-to-day operational control rests with local boards of trustees. Most firefighters and police officers participate in these plans. If the division deems that a firefighter or police pension plan created pursuant to chapters 175 or 185, F.S., is not in compliance with those chapters, the sponsoring municipality could be denied its insurance premium tax revenues.

The Firefighters’ Pension Trust Fund of each municipality or special fire control district is funded through an excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or district.<sup>4</sup> It is payable by the insurers to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the division.<sup>5</sup> In 2011, premium tax distributions to municipalities and special fire districts from the Firefighters’ Pension Trust Fund amounted to \$71.7 million.<sup>6</sup>

The Police Officers’ Retirement Trust Fund is funded through an excise tax of 0.85 percent imposed on the gross premiums on casualty insurance policies covering property within the boundaries of the municipality.<sup>7</sup> Similar to the Firefighters’ Pension Trust Fund, the excise tax is

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<sup>1</sup> See chapters 175 and 185, F.S.

<sup>2</sup> See ss. 175.021(1) and 185.01(1), F.S.

<sup>3</sup> Section 175.091(1)(a), F.S.

<sup>4</sup> Section 175.101(1), F.S.

<sup>5</sup> See s. 175.121, F.S.

<sup>6</sup> Division of Management Services, *Municipal Police Officers’ and Firefighters’ Retirement Forms: Facts and Figures Premium Tax Distribution History Firefighters*, available online at: [https://www.rol.frs.state.fl.us/forms/Fire\\_2011.pdf](https://www.rol.frs.state.fl.us/forms/Fire_2011.pdf) (last visited on December 19, 2012).

<sup>7</sup> See s. 185.08, F.S.

payable to the DOR, and the net proceeds are transferred to the appropriate fund at the division.<sup>8</sup> In 2011, premium tax distributions to municipalities from the Police Officers' Retirement Trust Fund amounted to \$59.6 million.<sup>9</sup>

Chapters 175 and 185, F.S., specify certain "minimum benefits" that must be provided in firefighter and police plans,<sup>10</sup> summarized in relevant part below:

<b>Benefit</b>	<b>Description of minimum level</b>
Retirement Benefit	2% x average final compensation x years of creditable service
Average Final Compensation (AFC)	Average annual compensation of highest 5 years of last 10 years of service
Vesting	10 years
Normal Retirement Age	Age 55 with 10 years of creditable service or Age 52 with 25 years of service
Early Retirement	Age 50 with 10 years of service Retirement benefit is reduced 3 percent for each year prior to reaching normal retirement age.
Earnings	Police = total cash remuneration Fire = fixed monthly compensation
Death Benefits	Prior to vesting - beneficiary receives employee contributions without interest earnings  Vested - beneficiary receives benefit based on early or normal retirement benefits, whichever are applicable  Post-retirement - beneficiary receives benefit based on retirement benefit option selected by member at time of retirement
Disability Benefits	Eligibility - no service requirement for in line of duty disability; 10 years of service for non service related disability  Benefits - no less than 25 percent of average monthly earnings if non-service related; no less than 42 percent of average monthly earnings if service related

<sup>8</sup> See s. 185.10, F.S.

<sup>9</sup> Division of Management Services, *Municipal Police Officers' and Firefighters' Retirement Forms: Facts and Figures Premium Tax Distribution History Police*, available online at: [https://www.rol.frs.state.fl.us/forms/Police\\_2011.pdf](https://www.rol.frs.state.fl.us/forms/Police_2011.pdf) (last visited on December 19, 2012).

<sup>10</sup> Sections 175.162 and 185.16, F.S.

In 1999, the Legislature passed legislation that made virtually all provisions of chapters 175 and 185, F.S., expressly applicable to all participating police officer and firefighter pension plans, except the local law plans established by the cities of Jacksonville, Coral Gables, and Miami.<sup>11</sup> All pension plans falling under these chapters were required to meet the specific “minimum benefit” standards. The law required that insurance premium tax revenues, over the amount received for calendar year 1997, be used to provide additional or “extra benefits” in firefighter and police officer pension plans. The term “extra benefits” means benefits in addition to or greater than those provided to general employees of the municipality, and in addition to those in existence for firefighters and police officers on March 12, 1999.<sup>12</sup>

Until August 2012, the division had consistently interpreted the law to require that premium tax revenues be used first to meet any minimum benefit requirements and those other pension benefits that were in place on March 12, 1999. Once the plan was in compliance with the minimum benefits requirements, any additional premium tax revenues had to be used in their entirety to provide extra benefits. Plans were not permitted to reduce pension benefits below the minimum benefits level or the level of pension benefits in effect on March 12, 1999, if greater.

### **Recent Interpretation**

In response to a letter from the City of Naples in August 2012, the division advised that its ongoing interpretation of s. 185.35(2), F.S., “appears inaccurate.” The division was asked, in essence, whether a city that negotiated and mutually agreed with its police officers to reduce benefits below levels in place on March 12, 1999, would jeopardize its premium tax revenues. In its new interpretation, the division advised that for local law plans in effect on October 1, 1998, the law compels the plan to provide chapter minimum benefits only to the extent that those benefits can be funded with “additional premium tax revenues.” So, for local law plans in effect on October 1, 1998, chapter minimum benefits must be provided only to the extent that they can be funded with premium tax revenues received in excess of the amount received for calendar year 1997.

Under the new interpretation, *it appears* that the following things are true:

- A plan sponsor may redirect, at its discretion, its pre-1997 premium tax revenues from funding minimum pension benefits to funding other non-pension retirement benefits;
- The plan’s pension benefits could be reduced to the level that can be funded solely by those additional premium tax revenues received in excess of the 1997 level;
- A plan sponsor could reduce its mandatory contribution it was previously making to the plan to fund minimum benefits and redirect those monies to other municipal purposes; and
- Post-1997 insurance premium tax revenues used previously to fund “extra benefits” would be used to fund the minimum benefits.

The division has subsequently provided this new interpretation to other inquiring cities, on a case by case basis. DMS has not adopted this new interpretation as a rule, nor its previous entirely different interpretation of the exact same statutory language.

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<sup>11</sup> Sections 175.351(3) and 185.35(3), F.S.

<sup>12</sup> See ss. 175.351 and 185.35, F.S.

### **Definition of Salary in Municipal Police Pension Plans**

A 300 hour cap on the amount of overtime hours to be included in the calculation of retirement benefits was added to ss. 112.66, 175.032, and 185.02, F.S., by SB 1128 in 2011. The provisions for general public retirement systems (Chapter 112, F.S.) and firefighter pensions (Chapter 175, F.S.) did not have existing stipulations allowing any overtime hours to be included in the calculation of retirement benefits. Section 185.02(4), F.S., had the following definition before amendment by SB 1128:

“Compensation” or “salary” means the total cash remuneration including “overtime” paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or a special detail work performed on behalf of a second party employer. However, a local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes, but in no event shall such overtime limit be less than 300 hours per officer per calendar year.

After amendment, the section reads as follows:

“Compensation” or “salary” means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the total cash remuneration including “overtime” paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or special detail work performed on behalf of a second party employer. A local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year. For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011, the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be included.

The pre-SB 1128 provision set the limit at no less than 300 hours, effectively acting as a floor or minimum of 300 hours. The post-SB 1128 language has been interpreted to mean that after July 1, 2011, the 300 hour floor has been replaced by a 300 hour cap. After the effective date of SB 1128, the DMS Division of Retirement appeared to take the position that SB 1128 did not *replace* the floor with a cap, but supplemented the 300 floor with a 300 hour cap. In other words, the employer would have had to include at least 300 hours of overtime in the calculation, but could not include more than 300 hours. Subsequently, however, the division has taken the

position that the amount of overtime hours that may be included when calculating retirement benefits may be anywhere from 0 to 300 hours.<sup>13</sup>

### III. Effect of Proposed Changes:

#### Use of Insurance Premium Tax Revenues

The bill substantially changes how insurance premium tax revenues must be used in the funding of police and firefighter pension plans in Chapter 175 and 185, Florida Statutes.

The bill amends parallel provisions in Chapters 175 and 185, F.S., and specifies that in order to receive insurance premium tax revenues, those revenues must be used as follows:

- The amount of premium tax revenues received in 1997 must be used to fund the benefits in existence on March 12, 1999.
- The increase in additional premium tax revenues between 1997 and 2012 must be used to fund any benefits above the base benefits.
- Premium tax revenues in excess of the amount received in 2012, and any accumulations of additional premium tax revenues that have not been applied to fund extra benefits must be used as follows:
  - If the plan is less than 80% funded, then
    - 50% of the revenues must be used to pay actuarial deficiencies;
    - 25% of the revenues must be used to fund base benefits; and
    - 25% of the revenues must fund defined contribution benefits.
  - If the plan is 80% or greater than funded, then:
    - 50% of the revenues must be used to fund base benefits; and
    - 50% of the revenues must fund defined contribution benefits.
- Premium tax revenues may not fund new defined benefits after March 1, 2013.

Plan benefits may be reduced, if the plan continues to meet the base benefits of the plan and minimum chapter standards. Of the plan sponsor's mandatory contribution freed up by reducing benefits, 25% must be used to fund actuarial deficiencies.

The bill also requires plan sponsors to create defined contribution plan components within their plans by October 1, 2013, or upon the creation date of a new participating plan. Plans created by special act of the Legislature have until July 1, 2014, to create a defined contribution component.

#### 300 Hour Cap

The bill amends s. 185.02(4), F.S., to delete the sentence that states: "A local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year."

Deleting this sentence should clarify that the definition has a maximum cap of 300 hours, with no required minimum, consistent with a recent interpretation by the division, as it applies to the inclusion of overtime hours in the calculation of police retirement benefits.

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<sup>13</sup> Letter from the DMS Division of Retirement to City of Largo, dated April 4, 2012, on file with the Committee on Governmental Oversight and Accountability.

### **Conforming Changes**

**Sections 3 and 8** amend sections 175.071 and 185.06, F.S., to make conforming changes.

### **Important State Interest**

**Section 11** provides that the Legislature determines that the bill fulfills an important state interest as related to public pension plans.

The bill takes effect July 1, 2013.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

To the extent this bill requires a local government to expend funds to comply with its terms, the provisions of section 18(a) of Article VII of the State Constitution may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest (included in section 11 of the bill), and one of the following relevant exceptions must be met:

- Funds estimated at the time of enactment sufficient to fund such expenditures are appropriated;
- Counties and cities are authorized to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

The bill allows all plan sponsors of pension plans created pursuant to chapters 175 and 185, F.S., to reduce extra benefits to the base benefits of the plans. The bill requires that 25% of the funds the plan sponsor could potentially “save” by rolling back extra benefits must be used to fund the plan’s actuarial deficiency. Since the provisions of the bill apply to cities and special fire control districts alike, the expenditures required by the bill, if any, are required by all persons similarly situated.

Under this analysis, the bill may be exempt from the requirements of section (18) of Article VII of the State Constitution if the bill has an insignificant fiscal impact on cities and counties.

### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill should reduce local police and firefighter plans' long term unfunded liabilities. The overall costs or savings associated with the bill are indeterminate, since each of the approximately 350 plans affected by the bill has a different funded status.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Governmental Oversight and Accountability on February 21, 2013:**

Some differences between how the committee substitute amends chapters 175 and 185, F.S., and how the bill as originally filed did so, are as follows:

- The CS does not include a provision in the bill that would require plan sponsors to continue funding the plans at 2013 levels until the plans are fully funded.
- The CS generally requires plan sponsors to fund the plans at least at the level of benefits in existence on March 12, 1999.
- Plans less than 80% funded must use 50% of their post-2012 increase in premium tax revenues, and accumulated premium tax revenues, to pay the plans actuarial deficiency; 25% must fund defined contribution benefits; and 25% must be used to fund base benefits. Plans funded greater than 80% must use 50% the post-2012 increase in premium tax revenues for defined contribution benefits, and 50% to fund base benefits.
- Plan benefits may be reduced to base benefit levels; 25% of the plan sponsor's mandatory contribution freed up by reducing benefits must be used to fund actuarial deficiencies.

- The CS reinstates an existing statutory exclusion applicable to three cities that was inadvertently deleted in the bill.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Ring

29-00459A-13

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1 A bill to be entitled  
 2 An act relating to firefighter and police officer  
 3 pension plans; amending s. 175.032, F.S.; revising  
 4 definitions to conform to changes made by the act;  
 5 amending s. 175.091, F.S.; providing for an additional  
 6 mandatory payment by the municipality or special fire  
 7 control district to the firefighters' pension trust  
 8 fund; amending s. 175.351, F.S., relating to  
 9 municipalities and special fire control districts that  
 10 have their own pension plans and want to participate  
 11 in the distribution of a tax fund; revising  
 12 definitions; specifying a payment that must be made by  
 13 the municipality or district to the defined benefit  
 14 plan; revising how income from the premium tax and  
 15 other revenues must be used; amending s. 185.02, F.S.;  
 16 revising definitions to conform to changes made by the  
 17 act; deleting a provision allowing a local law plan to  
 18 limit the amount of overtime payments which can be  
 19 used for retirement benefit calculations; amending s.  
 20 185.07, F.S.; providing for an additional mandatory  
 21 payment by the municipality to the municipal police  
 22 officers' retirement trust fund; amending s. 185.35,  
 23 F.S., relating to municipalities that have their own  
 24 pension plans for police officers and want to  
 25 participate in the distribution of a tax fund;  
 26 revising definitions; specifying a payment that must  
 27 be made by the municipality into the defined benefit  
 28 plan; revising how income from the premium tax and  
 29 other revenues must be used; providing a declaration

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30 of important state interest; providing an effective  
 31 date.

32  
 33 Be It Enacted by the Legislature of the State of Florida:

34  
 35 Section 1. Subsections (11) and (17) of section 175.032,  
 36 Florida Statutes, are amended to read:

37 175.032 Definitions.—For any municipality, special fire  
 38 control district, chapter plan, local law municipality, local  
 39 law special fire control district, or local law plan under this  
 40 chapter, the following words and phrases have the following  
 41 meanings:

42 (11) "Local law plan" means a defined benefit pension plan  
 43 for firefighters, or for firefighters or police officers if both  
 44 are ~~where~~ included, as described in s. 175.351, established by  
 45 municipal ordinance, special district resolution, or special act  
 46 of the Legislature, which ~~enactment~~ sets forth all plan  
 47 provisions. Local law plan provisions may vary from the  
 48 provisions of this chapter if the, ~~provided that required~~  
 49 minimum benefits as defined in s. 175.351(1) and minimum  
 50 standards of this chapter are met. However, any such variance  
 51 ~~must shall~~ provide a greater benefit for firefighters. Actuarial  
 52 valuations of local law plans shall be conducted by an enrolled  
 53 actuary as provided in s. 175.261(2).

54 (17) "Supplemental plan" means a plan to which deposits are  
 55 made to provide extra benefits for firefighters, or for  
 56 firefighters and police officers if both are ~~where~~ included,  
 57 under this chapter. Such a plan is an element of a local law  
 58 plan and exists in conjunction with a defined benefit plan that

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59 meets the minimum benefits as defined in s. 175.351(1) and  
60 minimum standards of this chapter.

61 Section 2. Paragraphs (e), (f), and (g) of subsection (1)  
62 of section 175.091, Florida Statutes, are redesignated as  
63 paragraphs (f), (g), and (h), respectively, and a new paragraph  
64 (e) is added to that subsection, to read:

65 175.091 Creation and maintenance of fund.—For any  
66 municipality, special fire control district, chapter plan, local  
67 law municipality, local law special fire control district, or  
68 local law plan under this chapter:

69 (1) The firefighters' pension trust fund in each  
70 municipality and in each special fire control district shall be  
71 created and maintained in the following manner:

72 (e) By mandatory payment by the municipality or special  
73 fire control district of the difference between the mandatory  
74 payment required under paragraph (d) for the most recent plan  
75 year ending before March 1, 2013, and the current plan year.  
76 This paragraph may not be construed to reduce the aggregate  
77 mandatory payment below the sum required under paragraph (d).

78  
79 Nothing in this section shall be construed to require adjustment  
80 of member contribution rates in effect on the date this act  
81 becomes a law, including rates that exceed 5 percent of salary,  
82 provided that such rates are at least one-half of 1 percent of  
83 salary.

84 Section 3. Section 175.351, Florida Statutes, is amended to  
85 read:

86 175.351 Municipalities and special fire control districts  
87 that have ~~having~~ their own pension plans for firefighters. ~~For~~

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88 ~~any municipality, special fire control district, local law~~  
89 ~~municipality, local law special fire control district, or local~~  
90 ~~law plan under this chapter,~~ In order for a municipality or  
91 ~~municipalities and~~ special fire control district that has its  
92 ~~districts with their own pension plan~~ plans for firefighters, or  
93 for firefighters and police officers if both are included, to  
94 participate in the distribution of the tax fund established  
95 under pursuant to s. 175.101, the municipality or special fire  
96 control district ~~local law plans~~ must meet the minimum benefits  
97 as defined in subsection (1) and the minimum standards set forth  
98 in this chapter, and comply with subsections (2), (3), and (4).

99 (1) As used in this section, the term:

100 (a) "Additional pension benefits" means those benefits  
101 offered by the plan as of March 1, 2013, which exceed minimum  
102 benefits, but excluding benefits offered in a supplemental plan.

103 (b) "Annual costs" means the total of the normal costs of  
104 the plan and the costs associated with amortizing any unfunded  
105 actuarial liability of the plan.

106 (c) "Minimum benefits" means the lesser of the benefits  
107 provided in the defined benefit plan as of March 1, 2013, or the  
108 benefits described in s. 175.162 as of March 1, 2013.

109 (d) "Supplemental benefits" means those benefits provided  
110 in a defined contribution plan.

111 ~~(1) If a municipality has a pension plan for firefighters,~~  
112 ~~or a pension plan for firefighters and police officers if~~  
113 ~~included, which in the opinion of the division meets the minimum~~  
114 ~~benefits and minimum standards set forth in this chapter, the~~  
115 ~~board of trustees of the pension plan, as approved by a majority~~  
116 ~~of firefighters of the municipality, may:~~

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117 ~~(a) Place the income from the premium tax in s. 175.101 in~~  
 118 ~~such pension plan for the sole and exclusive use of its~~  
 119 ~~firefighters, or for firefighters and police officers if~~  
 120 ~~included, where it shall become an integral part of that pension~~  
 121 ~~plan and shall be used to pay extra benefits to the firefighters~~  
 122 ~~included in that pension plan; or~~

123 ~~(b) Place the income from the premium tax in s. 175.101 in~~  
 124 ~~a separate supplemental plan to pay extra benefits to~~  
 125 ~~firefighters, or to firefighters and police officers if~~  
 126 ~~included, participating in such separate supplemental plan.~~

127 (2) The municipality or special fire control district  
 128 shall, at a minimum, contribute into the defined benefit plan  
 129 the mandatory payment required under s. 175.091(1)(d) which the  
 130 municipality or special fire control district contributed for  
 131 the most recent plan year ending before March 1, 2013. The  
 132 amount of the mandatory payment may be reduced to the sum  
 133 required under s. 175.091(1)(d) if the plan has no actuarial  
 134 deficiency as shown in the latest actuarial valuation of the  
 135 plan.

136 ~~(3)(2) The premium tax provided by this chapter shall in~~  
 137 ~~all cases be used in its entirety to provide retirement extra~~  
 138 ~~benefits to firefighters, or to firefighters and police officers~~  
 139 ~~if both are included, after using all other revenues, including~~  
 140 ~~mandatory payments by the municipality or special fire control~~  
 141 ~~district, employee contributions, and investment earnings~~  
 142 ~~received by the plan, in the following order:~~

143 (a) The annual insurance premium revenues shall be used  
 144 first to meet the annual costs associated with providing the  
 145 minimum benefits set forth in this section.

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146 (b) The annual insurance premium revenues shall be used  
 147 next to meet the annual costs associated with any additional  
 148 pension benefits.

149 (c) If the plan has an actuarial deficiency as shown in the  
 150 latest actuarial valuation of the plan, 50 percent of the annual  
 151 insurance premium revenues remaining after the uses specified in  
 152 paragraphs (a) and (b) shall be allocated as additional  
 153 contributions to fund such deficiency.

154 (d) Any annual insurance premium revenues remaining after  
 155 the uses specified in paragraphs (a), (b), and (c) shall be used  
 156 to provide supplemental benefits. However, local law plans in  
 157 effect on October 1, 1998, must comply with the minimum benefit  
 158 provisions of this chapter only to the extent that additional  
 159 premium tax revenues become available to incrementally fund the  
 160 cost of such compliance as provided in s. 175.162(2)(a). If a  
 161 plan is in compliance with such minimum benefit provisions, as  
 162 subsequent additional premium tax revenues become available,  
 163 they must be used to provide extra benefits. Local law plans  
 164 created by special act before May 27, 1939, are deemed to comply  
 165 with this chapter. For the purpose of this chapter, the term:

166 ~~(a) "Additional premium tax revenues" means revenues~~  
 167 ~~received by a municipality or special fire control district~~  
 168 ~~pursuant to s. 175.121 which exceed that amount received for~~  
 169 ~~calendar year 1997.~~

170 ~~(b) "Extra benefits" means benefits in addition to or~~  
 171 ~~greater than those provided to general employees of the~~  
 172 ~~municipality and in addition to those in existence for~~  
 173 ~~firefighters on March 12, 1999.~~

174 (4) Insurance premium tax revenues may not be used to fund

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175 benefits provided in a defined benefit plan which were not  
 176 provided by the plan as of March 1, 2013.

177 ~~(5)(3)~~ A retirement plan or amendment to a retirement plan  
 178 may not be proposed for adoption unless the proposed plan or  
 179 amendment contains an actuarial estimate of the costs involved.  
 180 Such proposed plan or proposed plan change may not be adopted  
 181 without the approval of the municipality, special fire control  
 182 district, or, where permitted, the Legislature. Copies of the  
 183 proposed plan or proposed plan change and the actuarial impact  
 184 statement of the proposed plan or proposed plan change shall be  
 185 furnished to the division before the last public hearing  
 186 thereon. Such statement must also indicate whether the proposed  
 187 plan or proposed plan change is in compliance with s. 14, Art. X  
 188 of the State Constitution and those provisions of part VII of  
 189 chapter 112 which are not expressly provided in this chapter.  
 190 Notwithstanding any other provision, only those local law plans  
 191 created by special act of legislation before May 27, 1939, are  
 192 deemed to meet the minimum benefits and minimum standards only  
 193 in this chapter.

194 ~~(6)(4)~~ Notwithstanding any other provision, with respect to  
 195 any supplemental plan municipality:

196 (a) A local law plan and a supplemental plan may continue  
 197 to use their definition of compensation or salary in existence  
 198 on March 12, 1999.

199 (b) Section 175.061(1)(b) does not apply, and a local law  
 200 plan and a supplemental plan shall continue to be administered  
 201 by a board or boards of trustees numbered, constituted, and  
 202 selected as the board or boards were numbered, constituted, and  
 203 selected on December 1, 2000.

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204 ~~(e) The election set forth in paragraph (1)(b) is deemed to~~  
 205 ~~have been made.~~

206 ~~(7)(5)~~ The retirement plan setting forth the benefits and  
 207 the trust agreement, if any, covering the duties and  
 208 responsibilities of the trustees and the rules governing  
 209 ~~regulations~~ of the investment of funds must be in writing, and  
 210 copies made available to the participants and to the general  
 211 public.

212 Section 4. Subsections (4), (10), and (15) of section  
 213 185.02, Florida Statutes, are amended to read:

214 185.02 Definitions.—For any municipality, chapter plan,  
 215 local law municipality, or local law plan under this chapter,  
 216 the following words and phrases as used in this chapter shall  
 217 have the following meanings, unless a different meaning is  
 218 plainly required by the context:

219 (4) "Compensation" or "salary" means, for noncollectively  
 220 bargained service earned before July 1, 2011, or for service  
 221 earned under collective bargaining agreements in place before  
 222 July 1, 2011, the total cash remuneration including "overtime"  
 223 paid by the primary employer to a police officer for services  
 224 rendered, but not including any payments for extra duty or  
 225 special detail work performed on behalf of a second party  
 226 employer. ~~A local law plan may limit the amount of overtime~~  
 227 ~~payments which can be used for retirement benefit calculation~~  
 228 ~~purposes; however, such overtime limit may not be less than 300~~  
 229 ~~hours per officer per calendar year.~~ For noncollectively  
 230 bargained service earned on or after July 1, 2011, or for  
 231 service earned under collective bargaining agreements entered  
 232 into on or after July 1, 2011, the term has the same meaning

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233 except that when calculating retirement benefits, up to 300  
234 hours per year in overtime compensation may be included as  
235 specified in the plan or collective bargaining agreement, but  
236 payments for accrued unused sick or annual leave may not be  
237 included.

238 (a) Any retirement trust fund or plan that meets the  
239 requirements of this chapter does not, solely by virtue of this  
240 subsection, reduce or diminish the monthly retirement income  
241 otherwise payable to each police officer covered by the  
242 retirement trust fund or plan.

243 (b) The member's compensation or salary contributed as  
244 employee-elective salary reductions or deferrals to any salary  
245 reduction, deferred compensation, or tax-sheltered annuity  
246 program authorized under the Internal Revenue Code shall be  
247 deemed to be the compensation or salary the member would receive  
248 if he or she were not participating in such program and ~~shall be~~  
249 treated as compensation for retirement purposes under this  
250 chapter.

251 (c) For any person who first becomes a member in any plan  
252 year beginning on or after January 1, 1996, compensation for  
253 that plan year may not include any amounts in excess of the  
254 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
255 the Omnibus Budget Reconciliation Act of 1993, which limitation  
256 of \$150,000 shall be adjusted as required by federal law for  
257 qualified government plans and ~~shall be~~ further adjusted for  
258 changes in the cost of living in the manner provided by Internal  
259 Revenue Code s. 401(a)(17)(B). For any person who first became a  
260 member before the first plan year beginning on or after January  
261 1, 1996, the limitation on compensation may not be less than the

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262 maximum compensation amount that was allowed to be taken into  
263 account under the plan ~~as~~ in effect on July 1, 1993, which  
264 limitation shall be adjusted for changes in the cost of living  
265 since 1989 in the manner provided by Internal Revenue Code s.  
266 401(a)(17)(1991).

267 (10) "Local law plan" means a defined benefit pension plan  
268 for police officers, or for police officers and firefighters if  
269 ~~both are, where~~ included, as described in s. 185.35, established  
270 by municipal ordinance or special act of the Legislature, which  
271 ~~enactment~~ sets forth all plan provisions. Local law plan  
272 provisions may vary from the provisions of this chapter if the-  
273 ~~provided that required~~ minimum benefits as defined in s.  
274 185.35(1) and minimum standards of this chapter are met.  
275 However, any such variance must ~~shall~~ provide a greater benefit  
276 for police officers. Actuarial valuations of local law plans  
277 shall be conducted by an enrolled actuary as provided in s.  
278 185.221(2)(b).

279 (15) "Supplemental plan" means a plan to which deposits of  
280 the premium tax moneys as provided in s. 185.08 are made to  
281 provide extra benefits to police officers, or police officers  
282 and firefighters if both are ~~where~~ included, under this chapter.  
283 Such ~~a~~ plan is an element of a local law plan and exists in  
284 conjunction with a defined benefit plan that meets the minimum  
285 benefits as defined in s. 185.35(1) and minimum standards of  
286 this chapter.

287 Section 5. Paragraphs (e), (f), and (g) of subsection (1)  
288 of section 185.07, Florida Statutes, are redesignated as  
289 paragraphs (f), (g), and (h), respectively, and a new paragraph  
290 (e) is added to that subsection, to read:

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291 185.07 Creation and maintenance of fund.—For any  
 292 municipality, chapter plan, local law municipality, or local law  
 293 plan under this chapter:

294 (1) The municipal police officers' retirement trust fund in  
 295 each municipality described in s. 185.03 shall be created and  
 296 maintained in the following manner:

297 (e) By mandatory payment by the municipality of the  
 298 difference between the mandatory payment required by paragraph  
 299 (d) for the most recent plan year ending before March 1, 2013,  
 300 and the current plan year. This paragraph may not be construed  
 301 to reduce the aggregate mandatory payment by the municipality  
 302 below the sum required by paragraph (d).

303  
 304 Nothing in this section shall be construed to require adjustment  
 305 of member contribution rates in effect on the date this act  
 306 becomes a law, including rates that exceed 5 percent of salary,  
 307 provided that such rates are at least one-half of 1 percent of  
 308 salary.

309 Section 6. Section 185.35, Florida Statutes, is amended to  
 310 read:

311 185.35 Municipalities ~~that have~~ having their own pension  
 312 plans for police officers. ~~For any municipality, chapter plan,~~  
 313 ~~local law municipality, or local law plan under this chapter,~~ In  
 314 order for a municipality that has its ~~municipalities with their~~  
 315 own pension ~~plan plans~~ for police officers, or for police  
 316 officers and firefighters if both are included, to participate  
 317 in the distribution of the tax fund established pursuant to s.  
 318 185.08, the municipality local law plans must meet the minimum  
 319 benefits as defined in subsection (1) and the minimum standards

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320 set forth in this chapter, and comply with subsections (2), (3),  
 321 and (4).+

322 (1) As used in this subsection, the term:

323 (a) "Additional pension benefits" means those benefits  
 324 offered by the plan as of March 1, 2013, which exceed minimum  
 325 benefits, but excluding benefits offered in a supplemental plan.

326 (b) "Annual costs" means the total of the normal costs of  
 327 the plan and the costs associated with amortizing any unfunded  
 328 actuarial liability of the plan.

329 (c) "Minimum benefits" means the lesser of the benefits  
 330 provided in the defined benefit plan as of March 1, 2013, or the  
 331 benefits described in s. 185.16 as of March 1, 2013.

332 (d) "Supplemental benefits" means those benefits provided  
 333 in a defined contribution plan.

334 ~~(1) If a municipality has a pension plan for police~~  
 335 ~~officers, or for police officers and firefighters if included,~~  
 336 ~~which, in the opinion of the division, meets the minimum~~  
 337 ~~benefits and minimum standards set forth in this chapter, the~~  
 338 ~~board of trustees of the pension plan, as approved by a majority~~  
 339 ~~of police officers of the municipality, may:~~

340 ~~(a) Place the income from the premium tax in s. 185.08 in~~  
 341 ~~such pension plan for the sole and exclusive use of its police~~  
 342 ~~officers, or its police officers and firefighters if included,~~  
 343 ~~where it shall become an integral part of that pension plan and~~  
 344 ~~shall be used to pay extra benefits to the police officers~~  
 345 ~~included in that pension plan; or~~

346 ~~(b) May place the income from the premium tax in s. 185.08~~  
 347 ~~in a separate supplemental plan to pay extra benefits to the~~  
 348 ~~police officers, or police officers and firefighters if~~

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349 ~~included, participating in such separate supplemental plan-~~

350 (2) The municipality shall, at a minimum, contribute to the  
 351 defined benefit plan the mandatory payment required under s.  
 352 185.07(1)(d) which the municipality contributed for the most  
 353 recent plan year ending before March 1, 2013. The amount of the  
 354 mandatory payment may be reduced to the sum required under s.  
 355 185.07(1)(d) if the plan has no actuarial deficiency as shown in  
 356 the latest actuarial valuation of the plan.

357 ~~(3)(2)~~ The premium tax provided by this chapter shall ~~in~~  
 358 ~~all cases~~ be used in its entirety to provide retirement extra  
 359 benefits to police officers, or to police officers and  
 360 firefighters if both are included, after using all other  
 361 revenues, including mandatory payments by the municipality,  
 362 employee contributions, and investment earnings received by the  
 363 plan, in the following order:

364 (a) The annual insurance premium revenues shall be used  
 365 first to meet the annual costs associated with providing the  
 366 minimum benefits set forth in this section.

367 (b) The annual insurance premium revenues shall be used  
 368 next to meet the annual costs associated with any additional  
 369 pension benefits.

370 (c) If the plan has an actuarial deficiency as shown in the  
 371 latest actuarial valuation of the plan, 50 percent of the annual  
 372 insurance premium revenues remaining after the uses specified in  
 373 paragraphs (a) and (b) shall be allocated as additional  
 374 contributions to fund such deficiency.

375 (d) Any annual insurance premium revenues remaining after  
 376 the uses specified in paragraphs (a), (b), and (c) shall be used  
 377 to provide supplemental benefits. However, local law plans in

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378 ~~effect on October 1, 1998, must comply with the minimum benefit~~  
 379 ~~provisions of this chapter only to the extent that additional~~  
 380 ~~premium tax revenues become available to incrementally fund the~~  
 381 ~~cost of such compliance as provided in s. 185.16(2). If a plan~~  
 382 ~~is in compliance with such minimum benefit provisions, as~~  
 383 ~~subsequent additional tax revenues become available, they shall~~  
 384 ~~be used to provide extra benefits. Local law plans created by~~  
 385 ~~special act before May 27, 1939, shall be deemed to comply with~~  
 386 ~~this chapter. For the purpose of this chapter, the term:~~

387 ~~(a) "Additional premium tax revenues" means revenues~~  
 388 ~~received by a municipality pursuant to s. 185.10 which exceed~~  
 389 ~~the amount received for calendar year 1997.~~

390 ~~(b) "Extra benefits" means benefits in addition to or~~  
 391 ~~greater than those provided to general employees of the~~  
 392 ~~municipality and in addition to those in existence for police~~  
 393 ~~officers on March 12, 1999.~~

394 (4) Insurance premium tax revenues may not be used to fund  
 395 benefits provided in a defined benefit plan which were not  
 396 provided by the plan as of March 1, 2013.

397 ~~(5)(3)~~ A retirement plan or amendment to a retirement plan  
 398 may not be proposed for adoption unless the proposed plan or  
 399 amendment contains an actuarial estimate of the costs involved.  
 400 Such proposed plan or proposed plan change may not be adopted  
 401 without the approval of the municipality or, where permitted,  
 402 the Legislature. Copies of the proposed plan or proposed plan  
 403 change and the actuarial impact statement of the proposed plan  
 404 or proposed plan change shall be furnished to the division  
 405 before the last public hearing thereon. Such statement must also  
 406 indicate whether the proposed plan or proposed plan change is in

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407 compliance with s. 14, Art. X of the State Constitution and  
 408 those provisions of part VII of chapter 112 which are not  
 409 expressly provided in this chapter. Notwithstanding any other  
 410 provision, only those local law plans created by special act of  
 411 legislation before May 27, 1939, are deemed to meet the minimum  
 412 benefits and minimum standards only in this chapter.

413 ~~(6)(4)~~ Notwithstanding any other provision, with respect to  
 414 any supplemental plan municipality:

415 (a) Section 185.02(4)(a) does not apply, and a local law  
 416 plan and a supplemental plan may continue to use their  
 417 definition of compensation or salary in existence on March 12,  
 418 1999.

419 (b) A local law plan and a supplemental plan must continue  
 420 to be administered by a board or boards of trustees numbered,  
 421 constituted, and selected as the board or boards were numbered,  
 422 constituted, and selected on December 1, 2000.

423 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~  
 424 ~~have been made.~~

425 ~~(7)(5)~~ The retirement plan setting forth the benefits and  
 426 the trust agreement, if any, covering the duties and  
 427 responsibilities of the trustees and the rules governing  
 428 ~~regulations of~~ the investment of funds must be in writing and  
 429 copies made available to the participants and to the general  
 430 public.

431 Section 7. The Legislature finds that a proper and  
 432 legitimate state purpose is served when employees and retirees  
 433 of the state and its political subdivisions, and the dependents,  
 434 survivors, and beneficiaries of such employees and retirees, are  
 435 extended the basic protections afforded by governmental

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436 retirement systems that provide fair and adequate benefits and  
 437 that are managed, administered, and funded in an actuarially  
 438 sound manner as required by s. 14, Article X of the State  
 439 Constitution and part VII of chapter 112, Florida Statutes.  
 440 Therefore, the Legislature determines and declares that this act  
 441 fulfills an important state interest.

442 Section 8. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/13

Meeting Date

Topic RETIREMENT

Bill Number 458 (if applicable)

Name ROBERT SUAREZ

Amendment Barcode (if applicable)

Job Title VICE PRESIDENT

Address 345 W. MADISON STREET

Phone 305 9843299

Street

TAUSMATEE

City

State

Zip

E-mail

Speaking: For [ ] Against [x] Information [ ]

Representing FLORIDA PROFESSIONAL FIREFIGHTERS

Appearing at request of Chair: Yes [ ] No [x]

Lobbyist registered with Legislature: Yes [x] No [ ]

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-21-13

Meeting Date

Topic Municipal Pensions

Bill Number SB-45 (if applicable)

Name Dean Parkerson

Amendment Barcode (if applicable)

Job Title Pension Board Chairman

Address 752 E 1 Ave

Phone 305-525-6250

Street

Hialeah, FL 33010

City

State

Zip

E-mail deanpark@comcast.net

Speaking: For [ ] Against [x] Information [ ]

Representing Hialeah Fire Fighters

Appearing at request of Chair: Yes [ ] No [ ]

Lobbyist registered with Legislature: Yes [ ] No [ ]

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/13

Meeting Date

Topic Local Pension

Bill Number PCS/SB 458  
(if applicable)

Name Leticia Adams

Amendment Barcode 328110  
(if applicable)

Job Title Director of Governance Policy

Address 136 S. Bronough St.

Phone 850 544 6866

Tall FL 32301  
City State Zip

E-mail ladams@flchamber.com

Speaking:  For  Against  Information

Representing Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/13

Meeting Date

Topic Police/Fire Pensions

Bill Number SB 458  
(if applicable)

Name Kraig Conn

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 301 S. Bronough

Phone 222 9684

Tallahassee FL 32301  
City State Zip

E-mail Kconn@flcities.com

Speaking:  For  Against  Information

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-21-13

Meeting Date

Topic Firefighter Police Pension Plans

Bill Number 458  
(if applicable)

Name TIM CADDELL

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title GOV. RELATIONS ADMINISTRATOR

Address 5851 PARK BLVD

Phone 727-541-0721

Street  
PINELLAS PARK

E-mail tcaddell@pinellas-park  
cor

City State Zip

Speaking:  For  Against  Information

Representing CITY OF PINELLAS PARK

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/13

Meeting Date

Topic POLICE AND FIRE PENSION

Bill Number SB 458  
(if applicable)

Name HOWARD SCHIEFER DECKER

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title MAYOR OF MAITLAND

Address 1776 INDEPENDENCE LANE

Phone (407) 702-3131

Street

MAITLAND FLORIDA 32751

E-mail Haschief@aol.com

City State Zip

Speaking:  For  Against  Information

Representing CITY OF MAITLAND

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/13

Meeting Date

Topic Pension Sustainability Bill Number SB458  
Name Colleen Hufford Amendment Barcode \_\_\_\_\_ (if applicable)  
Job Title City Commissioner  
Address 527 Queen Merrow Phone 407.699.9194  
Casselberry FL 32709 E-mail colleenhufford  
City State Zip @ aol.com  
Speaking:  For  Against  Information  
Representing City of Casselberry  
Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/13

Meeting Date

Topic Municipal pensions Bill Number 458  
Name Rocco Salvatori Amendment Barcode \_\_\_\_\_ (if applicable)  
Job Title Firefighter  
Address 1010 9th Ave W Phone 941-708-6233  
Bradenton, FL 34205 E-mail roccofish@verizon.net  
City State Zip  
Speaking:  For  Against  Information  
Representing Suncoast Firefighters and Paramedics  
Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 534

INTRODUCER: Senator Brandes

SUBJECT: Publicly-funded Defined Benefit Retirement Plans

DATE: February 17, 2013      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	<b>Pre-meeting</b>
2.	_____	_____	CA	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

SB 534 explicitly provides that the state is not liable for any obligation relating to any financial shortfalls in any local government retirement plan. The bill also specifies additional reporting requirements for public pension plans, including the Florida Retirement System, and provides that local plans which do not comply with the reporting requirements may jeopardize their revenue sharing funds.

This bill substantially amends section 112.66 of the Florida Statutes and creates section 112.664.

**II. Present Situation:**

**Florida Local Retirement Systems and Plans**

The Division of Retirement of the Department of Management Services (DMS) reports<sup>1</sup> that as of September 30, 2012, there are 492 defined benefit plans sponsored by 249 local governments in Florida. The vast majority of the plans, 486, are local government defined benefit systems that provide benefits to 77,331 retirees, with 102,636 active employees, and total plan assets of \$23.8 billion.<sup>2</sup> The average annual pension in these local defined benefit plans is \$25,109, and the average annual required contribution rate as a percentage of payroll is 29.62 percent. The total unfunded actuarial accrued liability for all the defined benefit plans as of September 30, 2012, was \$10 billion.

<sup>1</sup> Division of Management Services, *Florida Local Government Retirement Systems*, 2012 Annual Report, available online at: [https://www.rol.frs.state.fl.us/forms/2012\\_Local\\_Report.pdf](https://www.rol.frs.state.fl.us/forms/2012_Local_Report.pdf) (last visited on February 11, 2013).

<sup>2</sup> The other 6 plans are school board early retirement programs that provide benefits to 1,644 retirees, with active plan membership of 8,631, and total plan assets of \$63.7 million.

### **Actuarial Reporting for Public Pension Plans**

Section 112.63, F.S., requires that public pension plans funded in whole or part by public plans must have regularly scheduled actuarial reports prepared and certified by an enrolled actuary, at least every three years. The actuarial reports must include at least the following information:

- Adequacy of employer and employee contributions;
- A plan to amortize any unfunded liability, and a description of actions taken to reduce the unfunded liability;
- A description and explanation of actuarial assumptions;
- A schedule illustrating the amortization of unfunded liabilities, if any;
- A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports;
- A disclosure of the present value of the plan's accrued vested, nonvested, and total benefits, as adopted by the Financial Accounting Standards Board, using the Florida Retirement System's assumed rate of return; and
- A statement by the enrolled actuary that the report is complete and accurate and that the techniques and assumptions used are reasonable and meet the requirements of state law.

The actuarial cost methods used to establish the annual normal costs of the plans must be those methods approved in the Employee Retirement Income Security Act of 1974.

The actuarial reports must be submitted to the Department of Management Services, which must review the reports to determine whether the actuarial valuation is complete, accurate, or based on reasonable assumptions.<sup>3</sup>

### **Firefighter and Police Pension Plans**

Sections 175.261 and 185.221, F.S., specify the financial reporting requirements for firefighter and municipal police pensions, respectively, which generally require an annual independent audit, and an actuarial valuation every three years. The reports must be submitted to DMS' Division of Retirement, which issues an annual report to the Legislature based upon the reporting from the plans.

Sections 175.051 and 85.04, F.S., state, in pertinent part, that actuarial deficits, if any, arising under plans under chapters 175 or 185, shall not be the obligation of the state.

### **Generally Accepted Accounting Principles**

The Governmental Accounting Standards Board (GASB) is the independent organization that establishes and improves standards of accounting and financial reporting for U.S. state and local governments. GASB was established in 1984 by agreement of the Financial Accounting Foundation and 10 national associations of state and local government officials. GASB is

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<sup>3</sup> Section 112.63(4)(a), F.S.

recognized by governments, the accounting industry, and the capital markets as the official source of generally accepted accounting principles for state and local governments.<sup>4</sup>

In June of 2012, GASB released Statement No. 67, *Financial Reporting for Pension Plans*, which establishes standards of financial reporting for separately issued financial reports and specifies the required approach to measuring the pension liability of employers and nonemployer contributing entities for benefits provided through the pension plan (the net pension liability), about which information is required to be presented. The provisions in Statement 67 are effective for financial statements for periods beginning after June 15, 2013.<sup>5</sup> The new Statements relate to accounting and financial reporting issues only—how pension costs and obligations are measured and reported in audited external financial reports. The Statements do not address how governments approach pension plan funding—a government’s policy regarding how much money it will contribute to its pension plan each year.<sup>6</sup>

### **Actuarial Soundness and Minimum Funding Standards for Pensions**

Article X, s. 14, of the State Constitution requires public retirement benefits to be funded on a sound actuarial basis:

SECTION 14: State retirement systems benefit changes.- A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.<sup>7</sup>

The “Florida Protection of Public Employee Retirement Benefits Act” located in part VII of ch. 112, F.S., provides minimum operation and funding standards for public employee retirement plans. The legislative intent of this act is to “prohibit the use of any procedure, methodology, or assumptions, the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.”<sup>8</sup>

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<sup>4</sup> From “Facts About GASB,” available at

[http://www.gasb.org/cs/BlobServer?blobkey=id&blobwhere=1175824305999&blobheader=application%2Fpdf&blobcol=url\\_data&blobtable=MungoBlobs](http://www.gasb.org/cs/BlobServer?blobkey=id&blobwhere=1175824305999&blobheader=application%2Fpdf&blobcol=url_data&blobtable=MungoBlobs) (last visited on February 11, 2013).

<sup>5</sup> Summary of Statement No. 67, available at

[http://www.gasb.org/cs/ContentServer?c=Pronouncement\\_C&pagename=GASB/Pronouncement\\_C/GASBSummaryPage&cid=1176160219444](http://www.gasb.org/cs/ContentServer?c=Pronouncement_C&pagename=GASB/Pronouncement_C/GASBSummaryPage&cid=1176160219444) (last visited on February 14, 2013).

<sup>6</sup> New GASB Pension Statements to Bring about Major Improvements in Financial Reporting, a June 2012 publication by GASB, available at

[http://www.gasb.org/cs/BlobServer?blobkey=id&blobwhere=1175824124337&blobheader=application%2Fpdf&blobcol=url\\_data&blobtable=MungoBlobs](http://www.gasb.org/cs/BlobServer?blobkey=id&blobwhere=1175824124337&blobheader=application%2Fpdf&blobcol=url_data&blobtable=MungoBlobs) (last visited on February 18, 2013).

<sup>7</sup> Art. X, section 14 of the Florida Constitution.

<sup>8</sup> Section 112.61, F.S.

**Internal Revenue Code Section 430: Minimum Funding Standards for Single-Employer Defined Benefit Pension Plans**

For actuarial determinations made pursuant to Section 430 of the Internal Revenue Code, the interest rate used in determining the present value of the liabilities of the plan must be a segmented corporate bond yield curve. The first segment consists of benefits reasonably determined to be payable during the 5-year period beginning on the first day of the plan year; the second segment consists of benefits reasonably determined to be payable between 5 and 20 years; and the third segment rate is benefits reasonably determined to be payable after 20 years.<sup>9</sup>

The table below<sup>10</sup> lists the 24-month average segment rates without adjustment for the applicable percentages of the 25-year average segment rates, and lists the 24-month average segment rates as adjusted by the applicable maximum and applicable minimum percentages of the 25-year average segment rates.

Funding Table 3							
For Plan Years Beginning In	Applicable Month	24-Month Average Segment Rates Not Adjusted			Adjusted 24-Month Average Segment Rates, Based on Applicable Percentage of 25-Year Average Rates		
		First Segment	Second Segment	Third Segment	First Segment	Second Segment	Third Segment
2013	Feb-13	1.58	4.34	5.38	4.94	6.15	6.76
2013	Jan-13	1.62	4.40	5.45	4.94	6.15	6.76
2013	Dec-12	1.66	4.47	5.52	4.94	6.15	6.76
2013	Nov-12	1.69	4.53	5.60	4.94	6.15	6.76
2013	Oct-12	1.72	4.58	5.67	4.94	6.15	6.76
2013	Sep-12	1.75	4.62	5.72	4.94	6.15	6.76
	<b>Applicable Month</b>	<b>First Segment</b>	<b>Second Segment</b>	<b>Third Segment</b>	<b>First Segment</b>	<b>Second Segment</b>	<b>Third Segment</b>
2012	Feb-13	1.58	4.34	5.38	5.54	6.85	7.52
2012	Jan-13	1.62	4.40	5.45	5.54	6.85	7.52
2012	Dec-12	1.66	4.47	5.52	5.54	6.85	7.52
2012	Nov-12	1.69	4.53	5.60	5.54	6.85	7.52
2012	Oct-12	1.72	4.58	5.67	5.54	6.85	7.52
2012	Sep-12	1.75	4.62	5.72	5.54	6.85	7.52
2012	Aug-12	1.77	4.67	5.78	5.54	6.85	7.52
2012	Jul-12	1.81	4.73	5.85	5.54	6.85	7.52
2012	Jun-12	1.84	4.79	5.90	5.54	6.85	7.52
2012	May-12	1.87	4.84	5.96	5.54	6.85	7.52
2012	Apr-12	1.90	4.90	6.01	5.54	6.85	7.52
2012	Mar-12	1.93	4.95	6.07	5.54	6.85	7.52
2012	Feb-12	1.96	5.01	6.13	5.54	6.85	7.52
2012	Jan-12	1.98	5.07	6.19	5.54	6.85	7.52
	<b>Applicable Month</b>	<b>First Segment</b>	<b>Second Segment</b>	<b>Third Segment</b>	<b>First Segment</b>	<b>Second Segment</b>	<b>Third Segment</b>
2012	Dec-11	1.99	5.12	6.24	5.54	6.85	7.52
2012	Nov-11	2.01	5.16	6.28	5.54	6.85	7.52
2012	Oct-11	2.03	5.20	6.30	5.54	6.85	7.52
2012	Sep-11	2.06	5.25	6.32	5.54	6.85	7.52

<sup>9</sup> Section 430(h)(2)(C) of the Internal Revenue Code.

<sup>10</sup> This table is taken from Funding Yield Curve Segment Rates, available at <http://www.irs.gov/Retirement-Plans/Funding-Yield-Curve-Segment-Rates> (last visited February 15, 2013).

Section 430(h)(3) of the Internal Revenue Code also provides that the Secretary must by regulation prescribe mortality tables to be used in determining any present value or making any computation under section 430 of the Code, implemented as the RP-2000 Mortality Tables.

### III. Effect of Proposed Changes:

**Section 1** provides that the state is not liable for any obligation relating to any current or future shortfall in any local government retirement system or plan.

**Section 2** creates additional reporting requirements for all publicly-funded defined benefit retirement plans, including the Florida Retirement System. The following information must be provided to DMS yearly, within 180 days after the close of the plan year, with signed actuarial certification:

- The long-term funded ratio calculated in a manner similar to the Government Accounting Standards Board's Statement No. 67, Financial Reporting for Pension Plans, including the market value of its assets, the value of its actuarial liabilities, and the amount of its unfunded accrued liability, if any.
- The dollar value of the unfunded accrued liability, if any, of the plan.
- The number of months or years for which the current market value of assets are adequate to sustain the payment of expected retirement benefits.
- The recommended contributions to the plan under GASB No. 67 calculations, stated as an annual dollar value and a percentage of valuation payroll.

To determine the information above, each reporting plan must use the following assumptions and methods:

- The actuarial cost method must be the Entry Age Normal method.
- The assumed rate of return on investments and the assumed discount rate must be the adjusted 24-month average corporate bond segment rates determined under s. 430(h)(2)(C)(iv) of the Internal Revenue Code by the Department of the Treasury.
- Preretirement mortality must be calculated using the RP-2000 Mortality Tables for male and female employees. Postretirement mortality must be calculated using the RP-2000 Mortality Tables for healthy white-collar employees, as projected from the year 2000 to the valuation year using Projection Scale AA.
- The asset valuation method must be the market value less the value of any deferred retirement option program accounts.
- All other assumptions and methods must be those used by the system or plan in its latest valuation.

Though it is a reporting requirement and not a funding requirement, the corporate bond assumed discount rate may produce lower funded ratios for most plans, since in the actuarial reporting the plans are currently doing, the assumed rate of return for the FRS is 7.75%, and for local plans the average is approximately 7.7%.<sup>11</sup>

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<sup>11</sup> Using data from the July 1, 2010 actuarial valuation of the FRS, a study was done in March 2011, to estimate the impact of changing the FRS investment return assumptions. The actuarial liability of the FRS was \$134.2 billion; the investment return rate assumption was (and still is) 7.75%. The study found that changing the investment return assumption from 7.75% to 6%

The information required by this bill must be provided in the municipal budget disclosure required by s. 166.241(3), F.S., and on any websites that contain budget information.

Firefighter and police pension plans established pursuant to chapters 175 and 185, F.S., that fail to timely submit the required information will be deemed to be in noncompliance with those chapters, which could potentially jeopardize the receipt of insurance premium tax revenues. Any local government defined benefit pension plan that fails to timely submit the required information will be deemed to be in noncompliance with Part VII of chapter 112, F.S.

The bill takes effect July 1, 2013.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

To the extent this bill requires a local government to expend funds to comply with its terms, the provisions of section 18(a) of Article VII of the State Constitution may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest, and one of the following relevant exceptions must apply:

- Funds estimated at the time of enactment sufficient to fund such expenditures are appropriated;
- Counties and cities are authorized to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

Subsection (d) of Section (18) provides an exemption for general laws having an insignificant fiscal impact. Laws determined to have an “insignificant fiscal impact,” means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10, which equates to approximately \$1.9 million.

The bill contains provisions that may require expenditures applicable to all public sector pension plans in Florida. The bill does not currently contain a finding of important state interest.

##### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires additional reporting requirements for local plans, which may incur additional costs in producing the required reporting. The exact cost of compliance with this bill is indeterminate, though last year DMS estimated that the cost of compliance for a local pension financial rating plan proposal that involved some similar reporting requirements could range from \$1,000 to \$5,000 per plan, per year.<sup>12</sup>

According to the Department of Management Services (department), the bill would increase administrative costs to the Division of Retirement (division), including staff and actuarial work, to comply with the reporting requirements in the bill. According to the department’s bill analysis, it estimates that the fiscal impact would be as follows:<sup>13</sup>

The new disclosure requirements do not affect the actuarial contributions for funding purposes for the FRS; however, there will be an administrative cost associated with preparing the new disclosures. The consulting actuary estimates that the additional reporting requirement would cost about \$20,000 in the first year and \$10,000 in each subsequent year.

Expenditures	FY 2013-14 Amount/FTE	FY 2014-15 Amount/FTE	FY 2015-16 Amount/FTE
Recurring	\$20,000	\$10,000	\$10,000
Non-recurring	-	-	-

In addition, one additional government analyst position would be required to insure that implementing and maintaining the actuarial database with these additional disclosure items does not negatively impact the timely accomplishment of current statutory responsibilities.

Expenditures	FY 2013-14	FY 2014-15	FY 2015-16
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<sup>12</sup> Financial Rating of Local Government Defined Benefit Plans, January 25, 2012, by the Department of Management Services, on file with the Senate Governmental Oversight and Accountability Committee.

<sup>13</sup> Department of Management Services, Bill Analysis 2013, for SB 534/HB 599, dated February 8, 2013, on file with the Governmental Oversight and Accountability Committee.

	Amount/FTE	Amount/FTE	Amount/FTE
Recurring	\$57,693	\$57,693	\$57,693
Non-recurring	\$3,762	-	-

Additionally, the actuarial costs for the chapter plans under chapters 175 and 185, F.S., are paid for from the police and firefighter’s trust fund.<sup>14</sup> The bill creates an additional annual expenditure requirement for reporting in order to qualify for premium tax distributions.

Expenditures	FY 2013-14 Amount/FTE	FY 2014-15 Amount/FTE	FY 2015-16 Amount/FTE
Recurring	\$30,000	\$20,000	\$20,000
Non-recurring	-	-	-

**VI. Technical Deficiencies:**

The word “direct” on line 40 should probably be “defined.”

Lines 121 through 127 contain an apparent contradiction in specifying the due date of the required report.

If the reference on line 134 to “noncompliance with this part” is intended to refer to provisions in s. 112.63(3)(b), F.S., the Legislature may want to make that reference more explicit.

**VII. Related Issues:**

DMS has noted in its analysis that the asset valuation method required by this bill excludes DROP assets, but does not provide comparable language to exclude DROP liabilities.

**VIII. Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>14</sup> The division conducts the actuarial valuations of chapter plans. See ss. 175.032(2) and 185.02(3), F.S.



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Governmental Oversight and Accountability  
(Hays) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (14) is added to section 112.66,  
Florida Statutes, to read:

112.66 General provisions.—The following general provisions  
relating to the operation and administration of any retirement  
system or plan covered by this part shall be applicable:

(14) The state is not liable for any obligation relating to  
any current or future shortfall in any local government  
retirement system or plan.



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13           Section 2. Section 112.664, Florida Statutes, is created to  
14 read:

15           112.664 Reporting standards for defined benefit retirement  
16 plans or systems.-

17           (1) In addition to the other reporting requirements of this  
18 part, within 180 days after the close of the first plan year  
19 that ends on or after June 30, 2013, and thereafter in each year  
20 required under s. 112.63(2), each defined benefit retirement  
21 system or plan, including the Florida Retirement System, shall  
22 electronically report the following information to the  
23 Department of Management Services in a format prescribed by the  
24 department:

25           (a) The long-term funded ratio calculated in a manner  
26 similar to the Government Accounting Standards Board's Statement  
27 No. 67, Financial Reporting for Pension Plans, including the  
28 market value of its assets, the value of its actuarial  
29 liabilities, and the amount of its unfunded accrued liability,  
30 if any.

31           (b) The dollar value of the unfunded accrued liability, if  
32 any, of the plan.

33           (c) The number of months or years for which the current  
34 market value of assets are adequate to sustain the payment of  
35 expected retirement benefits.

36           (d) The recommended contributions to the plan under the  
37 calculations required under paragraph (a) stated as an annual  
38 dollar value and a percentage of valuation payroll.

39           (2) Each defined benefit retirement system or plan shall  
40 use the following assumptions and methods in determining the  
41 information required under subsection (1):



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42           (a) The actuarial cost method, which is the Entry Age  
43 Normal method.

44           (b) The assumed rate of return on investments and the  
45 assumed discount rate, which are the adjusted 24-month average  
46 corporate bond segment rates determined under s.  
47 430(h)(2)(C)(iv) of the Internal Revenue Code by the Department  
48 of the Treasury.

49           (c) Preretirement mortality calculated using the RP-2000  
50 Mortality Tables for male and female employees. Postretirement  
51 mortality is calculated using the RP-2000 Mortality Tables for  
52 healthy white-collar employees, as projected from the year 2000  
53 to the valuation year using Projection Scale AA.

54           (d) The asset valuation method, which is the market value  
55 less the value of any deferred retirement option program  
56 accounts.

57           (e) The actuarial accrued liabilities, excluding the value  
58 of any deferred retirement option program accounts.

59           (f) All other assumptions and methods used by the system or  
60 plan in its latest valuation.

61           (3) Each defined benefit retirement system or plan and its  
62 plan sponsor shall provide the information required by this  
63 section and the funded ratio of the system or plan as determined  
64 in the most recent actuarial valuation as part of the  
65 disclosures required under s. 166.241(3) and on any website that  
66 contains budget information relating to the plan sponsor or  
67 actuarial or performance information related to the system or  
68 plan. The Executive Office of the Governor shall comply with  
69 this subsection by making the information and funded ratio  
70 relating to the Florida Retirement System available on the



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71 website described in s. 215.985 which contains state financial  
72 information.

73 (4) If a plan has not submitted the required information to  
74 the Department of Management Services within 180 days after the  
75 closing date of a plan year in which the information is required  
76 to be submitted to the department, the plan shall be deemed to  
77 be in noncompliance.

78 (a) The department may notify the Department of Revenue and  
79 the Department of Financial Services of the noncompliance, and  
80 the Department of Revenue and the Department of Financial  
81 Services shall withhold any funds not pledged for satisfaction  
82 of bond debt service and which are payable to the plan sponsor  
83 until the information is provided to the department. The  
84 department shall specify the date the withholding is to begin  
85 and notify the Department of Revenue, the Department of  
86 Financial Services, and the plan sponsor 30 days before the  
87 specified date.

88 (b) Within 21 days after receipt of the notice, the plan  
89 sponsor may petition the department for a hearing under ss.  
90 120.569 and 120.57. The Department of Revenue and the Department  
91 of Financial Services may not be parties to the hearing, but may  
92 request to intervene if requested by the Department of  
93 Management Services or if the Department of Revenue or the  
94 Department of Financial Services determines its interests may be  
95 adversely affected by the hearing.

96 Section 3. Subsection (1) of section 112.665, Florida  
97 Statutes, is amended to read:

98 112.665 Duties of Department of Management Services.—

99 (1) The Department of Management Services shall:



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100 (a) Gather, catalog, and maintain complete, computerized  
101 data information on all public employee retirement systems or  
102 plans in the state, based upon a review of audits, reports, and  
103 other data pertaining to the systems or plans;

104 (b) Receive and comment upon all actuarial reviews of  
105 retirement systems or plans maintained by units of local  
106 government;

107 (c) Cooperate with local retirement systems or plans on  
108 matters of mutual concern and provide technical assistance to  
109 units of local government in the assessment and revision of  
110 retirement systems or plans;

111 (d) Annually issue, by January 1 ~~annually~~, a report to the  
112 President of the Senate and the Speaker of the House of  
113 Representatives, which ~~report~~ details division activities,  
114 findings, and recommendations concerning all governmental  
115 retirement systems. The report may include legislation proposed  
116 to carry out such recommendations;

117 (e) Provide a fact sheet for each participating local  
118 government defined benefit pension plan which summarizes  
119 ~~summarizing~~ the plan's actuarial status. The fact sheet should  
120 provide a summary of the plan's most current actuarial data,  
121 minimum funding requirements as a percentage of pay, and a 5-  
122 year history of funded ratios. The fact sheet must include a  
123 brief explanation of each element in order to maximize the  
124 transparency of the local government plans. The fact sheet must  
125 also contain the information specified in s. 112.664(1). These  
126 documents shall be posted on the department's website. Plan  
127 sponsors that have websites must provide a link to the  
128 department's website;



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129 (f) Annually issue, by January 1 ~~annually~~, a report to the  
130 Special District Information Program of the Department of  
131 Economic Opportunity which ~~that~~ includes the participation in  
132 and compliance of special districts with the local government  
133 retirement system provisions in s. 112.63 and the state-  
134 administered retirement system provisions ~~as~~ specified in part I  
135 of chapter 121; and

136 (g) Adopt reasonable rules to administer ~~the provisions of~~  
137 this part.

138 Section 4. The Legislature finds that a proper and  
139 legitimate state purpose is served when employees and retirees  
140 of the state and its political subdivisions, and the dependents,  
141 survivors, and beneficiaries of such employees and retirees, are  
142 extended the basic protections afforded by governmental  
143 retirement systems that provide fair and adequate benefits and  
144 that are managed, administered, and funded in an actuarially  
145 sound manner as required by s. 14, Article X of the State  
146 Constitution and part VII of chapter 112, Florida Statutes.  
147 Therefore, the Legislature determines and declares that this act  
148 fulfills an important state interest.

149 Section 5. This act shall take effect July 1, 2013.

150  
151 ===== T I T L E A M E N D M E N T =====

152 And the title is amended as follows:

153 Delete everything before the enacting clause  
154 and insert:

155 A bill to be entitled  
156 An act relating to publicly funded defined benefit  
157 retirement plans; amending s. 112.66, F.S.; providing



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158 that the state is not liable for shortfalls in local  
159 government retirement systems or plans; creating s.  
160 112.664, F.S.; requiring a defined benefit system or  
161 plan to report certain information to the Department  
162 of Management Services by a certain date and  
163 specifying the assumptions and methods to be used in  
164 determining the information submitted; requiring the  
165 plan sponsor to make the information available on  
166 certain websites; providing consequences for failure  
167 to timely submit the required information; providing a  
168 method for a plan sponsor to request a hearing to  
169 contest such consequences; amending s. 112.665, F.S.;

170 requiring the department to provide a fact sheet  
171 specifying certain information; providing a  
172 declaration of important state interest; providing an  
173 effective date.

174

175 WHEREAS, in 2012, there were 492 local government employee  
176 defined benefit pension plans in Florida, providing pension  
177 benefits to approximately 79,000 retirees. The interests of  
178 participants in many of these plans may have property rights  
179 implications under state law, and

180 WHEREAS, local government employee defined benefit pension  
181 plans are becoming a large financial burden on certain local  
182 governments and have already resulted in tax increases and the  
183 reduction of services, and

184 WHEREAS, the 2012 Florida Local Government Retirement  
185 Systems Annual Report published by the Department of Management  
186 Services specifies the total unfunded actuarial accrued



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187 liability of all local government defined benefit pension plans  
188 at approximately \$10 billion, and

189 WHEREAS, some economists and observers have stated that the  
190 extent to which state or local government employee defined  
191 benefit pension plans are underfunded is obscured by  
192 governmental accounting rules and practices, particularly as  
193 they relate to the valuation of plan assets and liabilities.  
194 This results in a misstatement of the value of plan assets and  
195 an understatement of plan liabilities, a situation that poses a  
196 significant threat to the soundness of state and local budgets,  
197 and

198 WHEREAS, there is currently a lack of meaningful disclosure  
199 regarding the value of state or local government employee  
200 defined benefit pension plan assets and liabilities. This lack  
201 of meaningful disclosure poses a direct and serious threat to  
202 the financial stability of such plans and their sponsoring  
203 governments, impairs the ability of state and local government  
204 taxpayers and officials to understand the financial obligations  
205 of their government, and reduces the likelihood that state and  
206 local government processes will be effective in assuring the  
207 prudent management of their plans, and

208 WHEREAS, the financial health of state or local government  
209 employee pension benefit plans can have statewide public  
210 repercussions, and the meaningful disclosure of the value of  
211 their assets and liabilities is necessary and desirable in order  
212 to adequately protect plan participants and their beneficiaries  
213 as well as the general public, and to further efforts to provide  
214 for the general welfare and the free flow of commerce, NOW,  
215 THEREFORE,

By Senator Brandes

22-00447C-13

2013534

1 A bill to be entitled  
 2 An act relating to publicly-funded defined benefit  
 3 retirement plans; amending s. 112.66, F.S.; providing  
 4 that the state is not liable for shortfalls in local  
 5 government retirement systems or plans; creating s.  
 6 112.664, F.S.; requiring a defined benefit system or  
 7 plan to report certain information to the Department  
 8 of Management Services and specifying the assumptions  
 9 and methods to be used in determining the information  
 10 submitted; requiring the plan sponsor to make the  
 11 information available on certain websites; providing a  
 12 time certain for submission of the information;  
 13 providing consequences for failure to submit the  
 14 required information; providing an effective date.  
 15  
 16 WHEREAS, in 2012, there were 492 local government employee  
 17 defined benefit pension plans in Florida, providing pension  
 18 benefits to approximately 79,000 retirees. The interests of  
 19 participants in many of these plans may have property rights  
 20 implications under state law, and  
 21 WHEREAS, local government employee defined benefit pension  
 22 plans are becoming a large financial burden on certain local  
 23 governments and have already resulted in tax increases and the  
 24 reduction of services, and  
 25 WHEREAS, the 2012 Florida Local Government Retirement  
 26 Systems Annual Report published by the Department of Management  
 27 Services specifies the total unfunded actuarial accrued  
 28 liability of all local government defined benefit pension plans  
 29 at approximately \$10 billion, and

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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2013534

30 WHEREAS, some economists and observers have stated that the  
 31 extent to which state or local government employee defined  
 32 benefit pension plans are underfunded is obscured by  
 33 governmental accounting rules and practices, particularly as  
 34 they relate to the valuation of plan assets and liabilities.  
 35 This results in a misstatement of the value of plan assets and  
 36 an understatement of plan liabilities, a situation that poses a  
 37 significant threat to the soundness of state and local budgets,  
 38 and  
 39 WHEREAS, there is currently a lack of meaningful disclosure  
 40 regarding the value of state or local government employee direct  
 41 benefit pension plan assets and liabilities. This lack of  
 42 meaningful disclosure poses a direct and serious threat to the  
 43 financial stability of such plans and their sponsoring  
 44 governments, impairs the ability of state and local government  
 45 taxpayers and officials to understand the financial obligations  
 46 of their government, and reduces the likelihood that state and  
 47 local government processes will be effective in assuring the  
 48 prudent management of their plans, and  
 49 WHEREAS, the financial health of state or local government  
 50 employee pension benefit plans can have statewide public  
 51 repercussions, and the meaningful disclosure of the value of  
 52 their assets and liabilities is necessary and desirable in order  
 53 to adequately protect plan participants and their beneficiaries  
 54 as well as the general public, and to further efforts to provide  
 55 for the general welfare and the free flow of commerce, NOW,  
 56 THEREFORE,  
 57  
 58 Be It Enacted by the Legislature of the State of Florida:

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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2013534

59  
60 Section 1. Subsection (14) is added to section 112.66,  
61 Florida Statutes, to read:

62 112.66 General provisions.—The following general provisions  
63 relating to the operation and administration of any retirement  
64 system or plan covered by this part ~~are shall be~~ applicable:

65 (14) The state is not liable for any obligation relating to  
66 any current or future shortfall in any local government  
67 retirement system or plan.

68 Section 2. Section 112.664, Florida Statutes, is created to  
69 read:

70 112.664 Reporting standards for defined benefit retirement  
71 plans or systems.—

72 (1) In addition to the other reporting requirements of this  
73 part, effective July 1, 2013, and for every other plan year  
74 completed on or after January 1, 2013, each defined benefit  
75 retirement system or plan, including the Florida Retirement  
76 System, shall electronically report the following information to  
77 the Department of Management Services in a format established by  
78 the department:

79 (a) The long-term funded ratio calculated in a manner  
80 similar to the Government Accounting Standards Board's Statement  
81 No. 67, Financial Reporting for Pension Plans, including the  
82 market value of its assets, the value of its actuarial  
83 liabilities, and the amount of its unfunded accrued liability,  
84 if any.

85 (b) The dollar value of the unfunded accrued liability, if  
86 any, of the plan.

87 (c) The number of months or years for which the current

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88 market value of assets are adequate to sustain the payment of  
89 expected retirement benefits.

90 (d) The recommended contributions to the plan under the  
91 calculations required under paragraph (a) stated as an annual  
92 dollar value and a percentage of valuation payroll.

93 (2) Each defined benefit retirement system or plan shall  
94 use the following assumptions and methods in determining the  
95 information required under subsection (1):

96 (a) The actuarial cost method, which is the Entry Age  
97 Normal method.

98 (b) The assumed rate of return on investments and the  
99 assumed discount rate, which are the adjusted 24-month average  
100 corporate bond segment rates determined under s.  
101 430(h)(2)(C)(iv) of the Internal Revenue Code by the Department  
102 of the Treasury.

103 (c) Preretirement mortality calculated using the RP-2000  
104 Mortality Tables for male and female employees. Postretirement  
105 mortality is calculated using the RP-2000 Mortality Tables for  
106 healthy white-collar employees, as projected from the year 2000  
107 to the valuation year using Projection Scale AA.

108 (d) The asset valuation method, which is the market value  
109 less the value of any deferred retirement option program  
110 accounts.

111 (e) All other assumptions and methods used by the system or  
112 plan in its latest valuation.

113 (3) Each defined benefit retirement system or plan and its  
114 plan sponsor shall provide the information required by this  
115 section and the funded ratio of the system or plan as determined  
116 in the most recent actuarial valuation as part of the

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117 disclosures required under s. 166.241(3) and on any website that  
118 contains budget information relating to the plan sponsor or  
119 actuarial or performance information related to the system or  
120 plan.

121 (4) Each retirement system or plan shall submit the  
122 information required by this section to the department within  
123 180 days after the close of the plan year together with  
124 appropriate signed actuarial certification as established by the  
125 department. For those plan years ending between January 1, 2013,  
126 and July 1, 2013, the due date for the submission of information  
127 is October 1, 2013.

128 (5) A plan established under chapter 175 or chapter 185  
129 that fails to submit the information on a timely basis shall be  
130 deemed to be in noncompliance with chapters 175 and 185, as  
131 applicable.

132 (6) Any local government defined benefit pension plan that  
133 fails to submit the information on a timely basis shall be  
134 deemed to be in noncompliance with this part.

135 Section 3. This act shall take effect July 1, 2013.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/21/13

Meeting Date

Topic PENSION DISCLOSURE

Bill Number 534  
*(if applicable)*

Name JIM RIZZO

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title SENIOR CONSULTANT & ACTUARY

Address ONE EAST BROWARD BLVD.

Phone \_\_\_\_\_

Street

FORT LAUDERDALE, FL

City

State

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E-mail Jim.Rizzo @ gabriel  
roeder.com

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

# CourtSmart Tag Report

**Room:** KN 412  
**Case:** Governmental Oversight and Accountability Committee

**Type:**  
**Judge:**

**Started:** 2/21/2013 11:02:41 AM  
**Ends:** 2/21/2013 11:57:21 AM      **Length:** 00:54:41

11:02:44 AM Roll Call  
11:03:00 AM Introduce SB 458 by Ring  
11:04:10 AM Comments - Sen. Hays  
11:04:35 AM Discussion of Amendment 442394 by Ring  
11:07:43 AM Motion to Introduce PCS 328110 by Sen. Bradley  
11:07:47 AM Comments - Sen. Bradley  
11:08:42 AM Amendment 442394 by Ring  
11:09:00 AM Amendment Adopted  
11:09:10 AM Amendment 607428 by Ring  
11:09:25 AM Amendment Adopted  
11:10:09 AM Question - Sen. Smith  
11:10:50 AM Lisa Henning - Fraternal Order of Police  
11:11:50 AM David Morrell - Florida Police Benevolent Association  
11:15:49 AM Comments - Sen. Ring  
11:16:05 AM Robert Suarez - Florida Professional Firefighters  
11:21:52 AM Dean Parkerson - Hialeah Firefighters  
11:25:33 AM Comments - Sen. Ring  
11:28:00 AM Leticia Adams, Florida Chamber of Commerce  
11:29:19 AM Kraig Conn, Florida League of Cities  
11:32:00 AM Comments - Sen. Bradley  
11:36:48 AM Howard Schieferdecker - City of Maitland  
11:41:15 AM Questions - Sen. Hays  
11:43:25 AM Colleen Hufford - City of Casselberry  
11:48:59 AM Rocco Salvatori - Suncoast Firefighters and Paramedics  
11:50:01 AM Comments - Sen. Hays  
11:50:34 AM Comments - Sen. Montford  
11:52:02 AM Comments - Sen. Smith  
11:52:44 AM Comments - Sen. Ring  
11:55:40 AM Comments - Sen. Bradley  
11:56:39 AM Motion to submit SB 458 as a CS  
11:57:09 AM Roll Call - SB 458 reported favorable as a CS