

Committee on Governmental Oversight And Accountability

CS/SB 172 — Local Government Pension Reform

by Governmental Oversight and Accountability Committee and Senators Bradley, Ring, and Gaetz

The bill substantially changes how insurance premium tax revenues must be used in the funding of local government police and firefighter pension plans in chs. 175 and 185, F.S.

Definitions (Sections 2 and 9)

The bill defines several new terms for purposes of chs. 175 and 185, F.S. The most relevant terms are “additional premium tax revenues,” “base premium tax revenues,” and “minimum benefits.” Additional premium tax revenues mean insurance premium tax revenues received by a municipality (or special fire control district) which exceed base insurance premium tax revenues. Base premium tax revenues are those insurance premium taxes received by a municipality (or special fire control district) for calendar year 2003. Minimum benefits are the benefits set forth in specified sections of ch. 175, F.S., (for firefighters and, if included in the plan, police officers) and ch. 185, F.S., (for police officers and, if included in the plan, firefighters).

Change of the Minimum Benefit Accrual Rate (Sections 6 and 13)

The bill increases the minimum benefit accrual rate from 2.0 percent to 2.75 percent for firefighter and police officers. Plans are permitted to deviate from this rate if the plan is otherwise in compliance with the minimum benefits and minimum standards but provides a benefit accrual rate of less than 2.75 percent. In that instance, the plan must maintain, at a minimum, the benefit accrual rate that was in effect on July 1, 2015. If the plan subsequently increases the rate to 2.75 percent or greater, the plan may not later reduce the rate below 2.75 percent.

Use of Insurance Premium Tax Revenues (Sections 7 and 14)

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

- Base insurance premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits.
- Of the additional insurance premium tax revenues received in excess of the amount received in calendar year 2012, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits, as determined by the municipality (or special fire control district) and 50 percent must be placed in a defined contribution plan to fund special benefits.¹
- Additional insurance premium tax revenues not required to be distributed to fund minimum benefits, retirement benefits in excess of minimum benefits, or special benefits must be used

¹ Sections 2 and 9 define “special benefits” as benefits provided in a defined contribution plan.

to fund benefits **not** included in the minimum benefits. If the additional insurance premium tax revenues required to be distributed to fund minimum benefits, additional retirement benefits, and special benefits exceed the full cost of benefits provided through a retirement plan:

- 50 percent of any excess must be used to fund minimum benefits or other retirement benefits; and
- 50 percent must be placed in a defined contribution plan.
- Of any accumulations of additional insurance premium tax revenues which have not been applied to fund benefits in excess of minimum benefits:
 - 50 percent of the accumulation must be used to fund special benefits; and
 - 50 percent must be used to fund any unfunded actuarial liabilities of the plan, provided that any amount of accumulations in excess of amount required to fund unfunded actuarial liabilities must be used to fund special benefits.
- For plans created after March 1, 2015, 50 percent of the insurance premium tax revenues must be used to fund defined benefit plan component benefits and the remainder must be used to fund defined contribution plan component benefits.
- If a plan offers benefits in excess of the minimum benefits, excluding supplemental plan benefits in effect as of September 30, 2014, those plan benefits may be reduced if the plan continues to meet the minimum benefits and minimum standards in chs. 175 and 185, F.S., respectively. The amount of insurance premium tax revenues previously used to fund benefits in excess of minimum benefits, excluding supplemental benefits in effect as of 2012 calendar year, before the reduction must be used to fund minimum benefits or other retirement benefits (50 percent) and a defined contribution plan (50 percent). However, benefits may not be reduced if the plan does not have a minimum accrual rate of 2.75 percent, or greater, of the average final compensation of a full-time firefighter or police officer.

Notwithstanding those provisions of the bill, the use of insurance premium tax revenues, including additional tax revenues which have not been applied to fund benefits in excess of the minimum benefits, may deviate from the requirements of the bill by mutual consent of the members' collective bargaining representative or, if there is none, by majority consent of the plan members' of the fund and consent of the municipality (or special fire control district), provided the plan continues to meet the minimum benefits and the minimum standards of chs. 175 or 185, F.S. However, a plan that does not meet a minimum benefit as of October 1, 2012, may continue to provide the benefit not meeting the minimum benefit at the same level, but not less than that level as was provided on October 1, 2012, and all other benefits must continue to meet the minimum benefits. A mutually agreed deviation must continue until modified or revoked by subsequent mutual consent of the members' collective bargaining representative (or a majority of the members of the fund) and the municipality (or special fire control district). A special act plan or a plan within a supplemental plan municipality are considered to have mutually agreed to such deviation as of July 1, 2015, regarding the existing agreement on the use of insurance premium tax revenues.

The bill also requires plan sponsors to create defined contribution plan components within their plans by October 1, 2015, for noncollectively bargained services, upon entering into a collective bargaining agreement on or after July 1, 2015, or upon the creation date of a new participating plan. Depending upon the use of insurance premium tax revenues as otherwise provided in the bill, a defined contribution component may or may not receive funding.

The bill explicitly allows plans to use the insurance premium tax revenues and offer benefits below the statutorily required levels in certain instances. The plan must have relied upon the interpretation of the statute by the DMS to reduce the level of benefits or use the insurance premium tax revenues, and such reliance must be evidenced by certain documentation. The plan may continue to offer these reduced benefits and/or use the insurance premium tax revenues in this manner until the earlier of October 1, 2018, or the time when another collective bargaining agreement is negotiated addressing the benefits or use of revenues.

300 Hour Cap of Overtime for Benefit Purposes (Section 9)

The bill amends the definition of “compensation” or “salary” in s. 185.02(4), F.S., relating to police officer retirement plans, to:

- Repeal 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.” Repealing 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.
- Provide that overtime may be limited prior to July 1, 2011, in a local law plan by the plan provisions. Local law plans are retirement plans, which include a defined benefit plan component and a defined contribution plan component, for police officers (and firefighters, if included) established by municipal ordinance or special act of the Legislature.

Important State Interest (Section 15)

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

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 36-0; House 112-4