

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1145 West Palm Beach Police Pension Fund

**SPONSOR(S):** Kerner

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	18 Y, 0 N	Flegiel	Rojas
2) State Affairs Committee	15 Y, 0 N	Moore	Camechis

### SUMMARY ANALYSIS

The West Palm Beach Police Pension Fund (pension fund) was created by the Florida Legislature in 1947. Each police officer employed by the City of West Palm Beach Police Department is a pension fund participant.

The bill changes the required employee contribution rate to the pension fund as follows:

- Decreased from 18 percent to 11 percent for fiscal year 2012-2013;
- Increased from 11 percent to 20 percent for fiscal year 2013-2014; and
- Set at 11 percent for fiscal year 2014-2015 and each following fiscal year.

The bill requires the city to use Chapter 185, F.S., tax (premium tax) funds to lower the actual employee contribution rate in fiscal year 2013-2014 from 20 percent to 11 percent, and requires the city to provide additional funding if the tax funds are not enough to lower the actual rate to 11 percent. The bill specifies that contributions from premium tax funds are not employee contributions for contribution refund purposes.

These changes are necessary to reflect a collective bargaining agreement between the City of West Palm Beach and the Palm Beach County Police Benevolent Association.

According to the Economic Impact Statement, the bill reduces annual costs to the City of West Palm Beach for the pension fund by \$1,067,596 in fiscal year 2014-2015.

The bill takes effect upon becoming a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Governmental Unit Retirement and Pension Systems

Article X, section 14 of the Florida Constitution prohibits a governmental unit responsible for a retirement or pension system supported wholly or partially by public pension funds from providing, after January 1, 1977, an increase in benefits to members or beneficiaries without concurrent provisions for funding the increase on a sound actuarial basis.

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

Part VII of chapter 112, F. S., entitled the Florida Protection of Public Employee Retirement Benefits Act (Act), was adopted by the Legislature to implement the provisions of article X, section 14 of the Constitution. This Act establishes minimum standards for operating and funding public employee retirement systems and plans. The Act is applicable to all units of state, county, special district, and municipal governments participating in or operating a retirement system for public employees that is funded in whole or in part by public funds.

Florida law prohibits a unit of local government from agreeing to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change on the local retirement system, consistent with the actuarial review, and has furnished a copy of such statement to the Division of Retirement in the Department of Management Services.<sup>1</sup> The statement must also indicate whether the proposed changes are in compliance with article X, section 14 of the Constitution and with s. 112.64, F.S., which contains requirements relating to administration of funds and amortization of unfunded liability.

Pursuant to article III, section 11(a)(21) of the Constitution, s. 112.67, F.S., prohibits special laws in conflict with the requirements of the Act.

##### Firefighter and Police Pensions: Chapters 175 and 185, F.S.

Chapters 175 and 185, F.S., provide the statutory authority for municipal and special fire control district firefighter pensions as well as municipal police pensions. These laws were enacted by the Legislature to provide a “uniform retirement system” providing defined benefit plans for firefighters and police officers, and setting standards for operation and funding of these systems. Retirement systems or plans must be managed, administered, operated, and funded in such a manner as to maximize the protection of the retirement trust funds.

Chapter 175, F.S., was enacted in 1939 to provide an incentive—access to premium tax revenues—to encourage the establishment of firefighter retirement plans by Florida cities. Fourteen years later, in 1953, the Legislature enacted Chapter 185, F.S., which created a similar funding mechanism for retirement plans for municipal police officers. Special fire control districts became eligible to participate in the incentive provided by Chapter 175, F.S., in 1993.

Funding for these pension plans comes from four sources: (1) net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the “premium tax”), (2) employee contributions, (3) other revenue sources, and (4) mandatory payments by the city of any extra amount needed to keep the plan solvent. To qualify for premium tax dollars, plans must provide minimum benefits and have minimum standards as specified in Chapters 175 and 185, F.S. Responsibility for overseeing and monitoring these plans is assigned to the Division of Retirement in the Department of

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<sup>1</sup> See s. 112.63, F.S.

Management Services, but day-to-day operational control rests with local boards of trustees. Most Florida firefighters and municipal law enforcement officers participate in these plans.

### The West Palm Beach Police Pension Fund

The West Palm Beach Police Pension Fund (pension fund) was created by the Florida Legislature in 1947.<sup>2</sup> Each police officer employed by the City of West Palm Beach Police Department is a pension fund participant. As of September 30, 2013, the pension fund had 217 active members, 139 deferred retirement option program participants,<sup>3</sup> and 262 retirees and beneficiaries. The pension fund has assets in excess of \$238 million.<sup>4</sup>

Pursuant to s. 185.35, F.S., premium tax dollars are used to pay for “extra benefits” for police officers, i.e., benefits in addition to or greater than those provided to general employees of the municipality and in addition to those in existence for police officers on March 12, 1999.<sup>5</sup> Effective October 1, 2011, the member contribution rate for the pension fund was increased from 11 to 18 percent, and was then reduced back to 11 percent on October 1, 2013. The seven percent increase during this period was not contributed by the member, but was instead funded using the premium tax dollars received by the city in 2011 and 2012 as an extra benefit. This procedure (as well as the other reductions in benefits) was designed to allow the City of West Palm Beach to use the premium tax funds from 2011 and 2012 to help reduce the city’s contribution requirements and improve the stability of the pension fund.<sup>6</sup> Premium tax funds received in 2013 reverted back to the supplemental share plan<sup>7</sup> for the benefit of the police officers.

Under current law, the employee contributions to the pension fund are as follows:

Fiscal Year	Required Employee Contribution Rate	Contribution from Premium Tax Funds and City	Actual Employee Contribution Rate
2011-2012	18%	7%	11%
2012-2013	18%	7%	11%
2013-2014 and onward	11%	0%	11%

### **Effect of Proposed Changes**

The bill amends ch. 24981 (1947), L.O.F., as amended by ch. 2012-259, L.O.F., relating to the West Palm Beach Police Pension Fund, to reflect changes to the collective bargaining agreement between the City of West Palm Beach and the Palm Beach County Police Benevolent Association.

The bill changes the required employee contribution rates as follows:

- Decreased from 18 percent to 11 percent for fiscal year 2012-2013;
- Increased from 11 percent to 20 percent for fiscal year 2013-2014; and
- Set at 11 percent for fiscal year 2014-2015 and each following fiscal year.

The bill requires the city to use premium tax funds from years 2011, 2012, and 2014 to reduce the actual employee contribution rate from 20 percent to 11 percent for fiscal year 2013-2014. This will allow the City of West Palm Beach to maximize the use of premium tax funds received in years 2011, 2012, and 2014. If the premium tax funds are not enough to reduce the employee contribution from 20 percent to 11 percent, the city must provide funding for any shortfall.

<sup>2</sup> See, ch. 24981 (1947), L.O.F., as amended by ch. 2010-245, L.O.F.

<sup>3</sup> A deferred retirement option program allows an employee to elect to defer receipt of retirement benefits while continuing employment with his or her employer while the deferred monthly benefits accrue, plus interest, for a specified period of time.

<sup>4</sup> <http://wpbppf.com/>, last visited on March 17, 2014.

<sup>5</sup> Section 185.35(2)(b), F.S.

<sup>6</sup> See, Substantive Bill Analysis for HB 1301, Department of Management Services, January 11, 2012 (on file with the Government Operations Subcommittee).

<sup>7</sup> Pursuant to s. 185.02(15), F.S., a “supplemental plan” means a plan to which deposits of the premium tax moneys are made to provide extra benefits for police officers.

Under the bill, employee contributions to the pension fund are as follows:

Fiscal Year	Required Employee Contribution Rate	Contribution from Premium Tax Funds and City	Actual Employee Contribution Rate
2011-2012	18%	7%	11%
2012-2013	11%	0%	11%
2013-2014	20%	9%	11%
2014-2015 and onward	11%	0%	11%

The bill clarifies that premium tax funds received in 2013 and 2015 onward will be allocated to employee share accounts. The bill specifies that no amount of premium tax funds are to be considered employee contributions for the purposes of a refund of contributions.

**B. SECTION DIRECTORY:**

Section 1: Amends ss. 11 and 19 of ch. 24981 (1947), L.O.F., as amended by ch. 2012-259, L.O.F., relating to the West Palm Beach Police Pension Fund.

Section 2: Provides an effective date.

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

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? January 13, 2014

WHERE? *The Palm Beach Post*, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, FL.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

According to the Economic Impact Statement, the bill reduces costs to the City of West Palm Beach for the pension plan by \$1,067,596 for fiscal year 2014-2015.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 20, 2014, the Local & Federal Affairs Committee adopted one technical amendment and reported the bill favorably as a committee substitute. The amendment struck redundant language and clarified the intent of the bill to keep the member contribution rate at 11 percent in fiscal year 2014-2015 and beyond.

This analysis has been updated to reflect the amendment.