

**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.)

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

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BILL: CS/SB 1442

INTRODUCER: Community Affairs Committee and Senator Bradley

SUBJECT: Publicly Funded Retirement Programs

DATE: April 2, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<u>Pre-meeting</u>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

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

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 1442 allows a municipality providing fire protection services to a Municipal Service Taxing Unit (MSTU) through an interlocal agreement to receive insurance premium taxes collected within the MSTU boundary, for the purpose of providing pension benefits to the municipality's firefighters.

The bill may have an indeterminate but negative fiscal impact on the state General Revenue Fund and an indeterminate but positive fiscal impact on local government revenues.

**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 of providing 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>

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

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

In 1939, the Legislature enacted ch. 175, F.S., thereby encouraging cities to establish firefighter retirement plans by providing cities with the incentive of access to premium tax revenues. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.

Participation in the trust fund is limited to incorporated municipalities and to special fire control districts. Single consolidated governments of a county and one or more municipalities are also allowed to participate in the trust fund. Currently, unincorporated areas of a county may not participate unless a special fire control district includes the unincorporated areas.

### **Administration of Retirement Plans**

The Division of Retirement (division) in the Department of Management Services (DMS) administers benefits to firefighters under two types of plans, a chapter plan or a local plan. A chapter plan is a plan that adopts the provisions of either ch. 175 or 185, F.S., by reference. A local plan is a plan that is created by a special act of the Legislature, or by a local ordinance or resolution that meets the minimum statutory requirements. The division is responsible for overseeing and monitoring these plans, but day-to-day operational control rests with local boards of trustees subject to the regulatory authority of the division.<sup>3</sup> If the division were to deem that a firefighter or police pension plan created pursuant to ch. 175 or 185, F.S., is not in compliance with those chapters, the sponsoring municipality could be denied its insurance premium tax revenues.

### **Funding Sources**

Four sources provide funding for these pension plans: 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>4</sup> To qualify for insurance premium tax dollars, plans must meet requirements found in ch. 175 and 185, F.S.

An excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or district funds the Firefighters’ Pension Trust Fund of each municipality or special fire control district.<sup>5</sup> The insurers pay the tax to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the division.<sup>6</sup> For fiscal year 2014-15, premium tax collections are estimated to be \$804 million, and distributions to the Firefighters’ Pension Trust Fund are predicted to be \$179.5 million.<sup>7</sup>

A municipality that has entered into a one year or longer interlocal agreement to provide fire services to another incorporated municipality may receive its premium taxes.<sup>8</sup> The municipality providing fire services must notify the division of the interlocal agreement. The division may

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<sup>3</sup> The division is responsible for administrative oversight of funds, including monitoring for actuarial soundness.

<sup>4</sup> Sections 175.091(1)(a) and 185.07(1), F.S.

<sup>5</sup> Section 175.101(1), F.S.

<sup>6</sup> See s. 175.121, F.S.

<sup>7</sup> Office of Economic and Demographic Research, *Local Government Financial Information Handbook* (2014), at 110.

<sup>8</sup> Although, the criteria in s. 175.041(3)(c), F.S., must be met.

then distribute any premium taxes reported for the other incorporated municipality to the municipality providing the fire services.<sup>9</sup>

### **Counties Furnishing Municipal Services**

General law implements the constitutional provision authorizing a county furnishing municipal services to levy additional taxes within the limits fixed for municipal purposes via the establishment of MSTUs.<sup>10</sup> The creation of a MSTU allows the county's governing body to place the burden of ad valorem taxes upon property in a geographic area less than countywide to fund a particular municipal-type service or services. The MSTU is used in a county budget to separate those ad valorem taxes levied within the taxing unit itself to ensure that the funds derived from the tax levy are used within the boundaries of the taxing unit for the contemplated services. If ad valorem taxes are levied to provide these municipal services, counties are authorized to levy up to ten mills.<sup>11</sup>

The MSTU may encompass the entire unincorporated area, a portion of the unincorporated area, or all or part of the boundaries of a municipality. However, the inclusion of municipal boundaries within the MSTU is subject to the consent by ordinance of the governing body of the affected municipality given either annually or for a term of years.<sup>12</sup>

### **III. Effect of Proposed Changes:**

The bill allows a municipality providing fire protection services to a MSTU through an interlocal agreement to receive insurance premium taxes collected within the MSTU boundary, for the purpose of providing pension benefits to the municipality's firefighters.

The bill provides an effective date of July 1, 2014.

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

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

None.

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

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>9</sup> See Chapter 2005-205, Laws of Fla. (HB 1159).

<sup>10</sup> Section 125.01(1)(q), F.S.

<sup>11</sup> Section 200.071(3), F.S.

<sup>12</sup> Office of Economic and Demographic Research, *Local Government Financial Information Handbook* (2014).

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Provisions of this bill will have an indeterminate but negative impact on the General Revenue Fund, because taxes imposed pursuant to ch. 175, F.S., are credited against insurance premium taxes paid to the state. The provisions of this bill have not been reviewed by the Revenue Estimating Conference.

Municipalities providing fire service to MSTUs will receive an indeterminate amount of additional revenue to fund firefighter pension plans.

The Department of Revenue notes that it may need to update forms and databases.<sup>13</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The language in the bill may need to be clarified to reflect that the MSTUs will not be providing pension benefits.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 175.041, 175.101, 175.111, 175.122, 175.351, and 175.411.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

**CS by Community Affairs on March 19, 2014:**

Makes technical changes.

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<sup>13</sup> Dep't of Revenue, Legislative Bill Analysis SB 1442 (Mar. 12, 2014).

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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