

**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 Community Affairs

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BILL: CS/SB 216

INTRODUCER: Community Affairs Committee and Senator Bradley

SUBJECT: Publicly Funded Retirement Programs

DATE: February 3, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	Fav/CS
2.			GO	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 216 allows a municipality providing fire protection services to a Municipal Services 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.

Additionally, the bill requires local government pension plan actuarial valuations, and the additional actuarial disclosures required under s. 112.664, F.S., to use a mortality table methodology for funding purposes that is consistent with the most recent actuarial report issued by the Florida Retirement System.

The bill provides an effective date of July 1, 2015.

**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>

### **Actuarial Soundness of Retirement Plans**

The Florida Constitution requires benefit improvements under public pension plans in the State of Florida to be concurrently funded on a sound actuarial basis.<sup>13</sup> The "Florida Protection of Public Employee Retirement Benefits Act," (Act)<sup>14</sup> establishes the minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. The Act states the legislative intent 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>15</sup>

Enrolled actuaries prepare and certify actuarial reports for each retirement plan subject to the Act, at regular intervals of at least three years.<sup>16</sup> When determining the actuarially required contributions for a pension plan, the pension plan board of trustees, with guidance from its professional advisors, chooses the mortality table to be applied in the valuation report.<sup>17</sup> In addition to the valuation report, s. 112.664, F.S., requires certain actuarial disclosures used to determine required funding. These additional actuarial disclosures mandate the use of the "RP-2000 Combined Healthy Participant Mortality Tables, by gender, with generational projection by Scale AA."<sup>18</sup>

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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).

<sup>13</sup> FLA. CONST. art. X, s. 14 (1976).

<sup>14</sup> Part VII of Ch. 112, F.S., implements Article X, Section 14, of the Florida Constitution.

<sup>15</sup> Section 112.61, F.S.

<sup>16</sup> Section 112.63, F.S.

<sup>17</sup> Dep't of Management Services, *2015 Legislative Bill Analysis: SB 242*, at 2 (Jan. 20, 2015).

<sup>18</sup> Section 112.664(1)(a), F.S.

### 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 also requires local government pension plan actuarial valuations to use a mortality table methodology for funding purposes that is consistent with the most recent actuarial report issued by the Florida Retirement System (FRS). Similarly, the bill requires that the additional actuarial disclosures required under s. 112.664, F.S., use a mortality table methodology that is consistent with the most recent FRS actuarial report.

The bill provides an effective date of July 1, 2015.

### IV. Constitutional Issues:

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

None.

#### 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:

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.<sup>19</sup> The provisions of this bill have not been reviewed by the Revenue Estimating Conference.

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<sup>19</sup> Section 175.141, F.S., allows for the Firefighters' Pension credit, by which a payor of the insurance premium tax is authorized a credit on their state excise or license tax, but must pay the balance of state excise or license tax to the Dep't of Revenue. For the order in which credits and deductions against the insurance premium tax are to be taken, see s. 624.509(7), F.S. See also, The Florida Senate Committee on Finance and Tax, *An Overview of Florida's Insurance Premium Tax*, Report No. 2007-122, at 10 (Oct. 2006).

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

The pension plan board of trustees, and its professional advisors, will be required to use the FRS mortality tables in their actuarial valuations, which may result in different contribution requirements from prior plans' valuation reports.<sup>20</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 175.041, 175.101, 175.111, 175.122, 175.351, 175.411, 112.63, and 112.664.

**IX. Additional Information:**

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

**CS by Community Affairs on February 3, 2015:**

Requires local government pension plan actuarial valuations, and the additional actuarial disclosures required under s. 112.664, F.S., to use a mortality table methodology for funding purposes that is consistent with the most recent actuarial report issued by the FRS.

- 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>20</sup> Dep't of Management Services, *2015 Legislative Bill Analysis: SB 242*, at 5 (Jan. 20, 2015).