

**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 Appropriations

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BILL: CS/CS/SB 216

INTRODUCER: Appropriations Committee; Community Affairs Committee; and Senator Bradley

SUBJECT: Publicly Funded Retirement Programs

DATE: April 13, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<b>Fav/CS</b>
2.	<u>McVaney</u>	<u>McVaney</u>	<u>GO</u>	<b>Favorable</b>
3.	<u>Davis</u>	<u>Kynoch</u>	<u>AP</u>	<b>Fav/CS</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/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.

The Revenue Estimating Conference has determined that this bill will reduce the General Revenue Fund by \$200,000 annually and increase local governments' revenues by \$200,000 annually beginning in Fiscal Year 2015-2016.

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

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

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>

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 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 with the day-to-day operational control residing 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: 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 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, and the net proceeds are transferred to the appropriate fund at the division.<sup>6</sup> For Fiscal Year 2014-2015, 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>

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

<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.

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 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 amends ss. 175.041, 175.101, 175.111, 175.122, 175.351, and 175.411, F.S., respectively, to allow 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, 2015.

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

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

None.

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

None.

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

<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).

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Revenue Estimating Conference has determined that the provisions of CS/CS/SB 216 related to the insurance premium tax will negatively impact the General Revenue Fund by \$200,000 annually and increase local governments' revenues by \$200,000 annually beginning in Fiscal Year 2015-2016.<sup>13</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, and 175.411.

**IX. Additional Information:**

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

**CS/CS by Appropriations on April 9, 2015:**

Removes provisions relating to mortality tables. Specifically, the CS removes the requirement that local government pension plan actuarial valuations, and the additional actuarial disclosures required to be submitted to the Department of Management Services, use a mortality table methodology for funding purposes consistent with the most recent published actuarial valuation report of the Florida Retirement System.

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<sup>13</sup> Revenue Estimating Conference, *Publicly Funded Retirement Systems, CS/SB 105 and CS/SB 216*, (March 27, 2015) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/pdf/page377-379.pdf> (last visited April 9, 2015).

**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.