HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	HB 1325	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Abruzzo	115 **Y's**	0 **N's**
COMPANION BILLS:	N/A	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

House Bill 1325 passed the House on February 29, 2012, and subsequently passed the Senate on March 5, 2012.

This bill amends the West Palm Beach Firefighters Pension Fund's special act to:

- change the calculation of average final compensation from the two highest years of compensation to the three highest years, thereby decreasing this amount;
- increase the member contribution rate from 19.2 to 25 percent effective May 13, 2012, and decrease the rate to 13.1 percent effective October 1, 2013, using state premium tax moneys received in 2012 and 2013 to fund this benefit;
- reduce the benefit accrual factor from four to three percent;
- reduce the guaranteed rate of return from 8.25 to four percent interest;
- require that members receive a lump sum distribution within six months of retirement;
- no longer require that members elect participation in the deferred retirement option program within a specified period; and
- eliminate a provision that allowed members to take loans from their deferred retirement option program accounts.

According to the Economic Impact Statement, it is estimated that the City of West Palm Beach's costs for the fund will be reduced by $1,945,493 in Fiscal Year 2012-2013, and $1,507,296 in Fiscal Year 2013-2014.

The bill was approved by the Governor on May 4, 2012, ch. 2012-260, Laws of Florida. The bill is effective upon becoming a law.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

State Constitution: Governmental Unit Retirement and Pension Systems

Section 14, Art. X of the State Constitution provides that a governmental unit responsible for a retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide an increase in benefits to members or beneficiaries without concurrent provisions for funding the increase on a sound actuarial basis.

Florida Statutes: the Florida Protection of Public Employee Retirement Benefits Act

Part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of s. 14, Art. X of the State Constitution. This law 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, which is funded in whole or in part by public funds.

Florida law provides that a unit of local government may not agree 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 upon the local retirement system, consistent with the actuarial review, and furnished a copy of such statement to the Division of Retirement, Department of Management Services.[1] The statement also is required to indicate whether the proposed changes are in compliance with s.14, Art. X of the State Constitution and with s. 112.64, F.S., which relates to administration of funds and amortization of unfunded liability.

Pursuant to s. 11(a)(21), Art. III of the State 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., respectively, provide the statutory authority for municipal and special fire control district firefighter pensions, and municipal police pensions. These acts were established 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 are to 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 originally 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 ch. 185, F.S., which created a similar funding mechanism for municipal police officers. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.

Funding for these pension plans comes from four sources: 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 any extra amount needed

[1] *See*, s. 112.63, F.S.

to keep the plan solvent. To qualify for premium tax dollars, plans must meet requirements found in chs. 175 and 185, F.S. Responsibility for overseeing and monitoring these plans is assigned to the Division of Retirement in the Department of 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 Firefighters Pension Fund

The West Palm Beach Firefighters Pension Fund was created by the Florida Legislature in 1947.[2] Each firefighter employed by the Fire Department of the City of West Palm Beach is a pension fund participant. The fund has 192 active members, 70 deferred retirement option program participants, and 172 retirees and beneficiaries. The fund assets as of December 31, 2011, were $134,637,681.93.[3]

Currently, the plan provides the following benefits:

- the average final compensation for members is calculated using the "best," i.e., most highly paid, two years of employment prior to retirement;
- the firefighters' contributions are 19.2 percent of salary;
- the benefit accrual factor is four percent, subject to a maximum of 92 percent of salary, and a minimum of two percent per year of service;
- members have the option of selecting the rate of return earned by the plan or a fixed 8.25 percent interest rate;
- members have the option of a lump sum distribution of their supplemental share plan account balance, an installment payout over three years, or a life annuity;
- election to participate in the Back Deferred Retirement Option Program (BackDROP)[4] must be made within the first 28 years of credited service; and
- loans are available to members from their BackDROP accounts.

Effect of Changes

HB 1325 amends ch. 24981, L.O.F., 1947, as amended by ch. 2010-246, L.O.F., relating to the West Palm Beach Firefighters Pension Fund, in order to comply with new actuarial assumptions as follows:

- The calculation of average final compensation is changed from the two highest years of compensation to the three highest years for members who retire on or after May 13, 2012,[5] who are not eligible for normal retirement as of May 13, 2012, or do not have a BackDROP date by October 1, 2011. This adjustment will have the effect of lowering this calculation.
- The firefighters' contributions are increased from 19.2 to 25 percent effective May 13, 2012, and then reduced to 13.1 percent effective October 1, 2013, by using the state premium tax moneys received in 2012 and 2013 to fund this "extra benefit."[6] After May 13, 2012, any member contribution amount over 11.1 percent is used for the purpose of participation in post-retirement health insurance benefits.

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[2] *See*, ch. 24981, L.O.F., 1947, as amended by ch. 2010-246, L.O.F.

[3] January 20, 2012, e-mail from Bonni S. Jensen, legal counsel for the Board of Trustees of the West Palm Beach Firefighters Pension Fund.

[4] In 2004, the fund's DROP (Deferred Retirement Option Program) benefit was replaced with a BackDROP benefit. Under the DROP program, a member "retires" from the pension plan, and continues to work while pension benefits are accounted for in an individual account within the pension plan. Under BackDROP, a member does not retire from the plan until they are ready to terminate employment. The member makes contributions for their entire tenure. The BackDROP account is created by a mathematical calculation at the time of retirement less administrative expenses.

[5] *Ibid.* This date reflects the first full payroll period after May 1, 2012.

[6] Pursuant to s. 175.351, F.S., premium tax dollars are used to pay for "extra benefits," 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 firefighters on March 12, 1999.

- The benefit accrual factor is reduced from four percent to three percent for service earned and retirements and retirement eligibilities which occur after May 13, 2012, subject to a maximum of 92 percent of salary, and a minimum of two percent per year of credited service.
- The guaranteed rate of return is reduced from 8.25 percent to four percent interest for members who retire after May 13, 2012.
- Members no longer have the option to select the method of payout from their accounts, but receive a lump sum distribution within six months of retirement.
- A requirement that members elect to participate in BackDROP within a specified period is eliminated.
- A provision allowing members to take loans from their BackDROP accounts is eliminated.

Additionally, the bill makes several technical changes to the special act, removing archaic language and updating references to federal laws. The City of West Palm Beach and the International Association of Firefighters Local 727 have agreed in collective bargaining to these benefit and funding changes.

The Actuarial Statement of Fiscal Soundness provided by the Department of Management Services, Division of Retirement,[7] provides that the bill:

- complies with the requirements of s. 14, Art. X of the State Constitution; and
- satisfies the actuarial cost impact provisions of part VII, ch. 112, F.S., pending review of the actuarial impact statement from the West Palm Beach Firefighters Pension Fund actuary.

The statement also notes that the police officers' contribution rate is increased from 19.2 percent to 25 percent. It is then decreased back to 13.1 percent using the state premium tax money to pay for the "improvement." The decrease in the benefit accrual rate and the other changes result in a reduction in the City of West Palm Beach contribution rate due to the increased use of state premium tax funds. The frozen amount of the state premium tax money to the defined benefit plan is increased for two years as a result of the changes. Any reduction in state premium tax money to less than the frozen amount during this period will be the responsibility of the City of West Palm Beach. Any increase in state premium tax money to an amount in excess of the frozen amount during this period would accumulate in an excess state money reserve. Beginning in 2014, all state premium tax moneys will revert back to the supplemental share plan and the remaining cost of the changes will be the responsibility of the City of West Palm Beach.

The bill is effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? December 1, 2011.

WHERE? *The Palm Beach Post*, a newspaper of general circulation published in Palm Beach County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

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[7] Statement prepared by Joseph Edmonds, Enrolled Actuary, 11-3518, dated January 11, 2012.

C. LOCAL BILL CERTIFICATION FILED? Yes [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [x] No []

According to the Economic Impact Statement, it is estimated that the City's costs for the fund will be reduced by $1,945,493 in Fiscal Year 2012-2013, and $1,507,296 in Fiscal Year 2013-2014.