

By Senator Ring

29-00459A-13

2013458

1                   A bill to be entitled  
2           An act relating to firefighter and police officer  
3           pension plans; amending s. 175.032, F.S.; revising  
4           definitions to conform to changes made by the act;  
5           amending s. 175.091, F.S.; providing for an additional  
6           mandatory payment by the municipality or special fire  
7           control district to the firefighters' pension trust  
8           fund; amending s. 175.351, F.S., relating to  
9           municipalities and special fire control districts that  
10          have their own pension plans and want to participate  
11          in the distribution of a tax fund; revising  
12          definitions; specifying a payment that must be made by  
13          the municipality or district to the defined benefit  
14          plan; revising how income from the premium tax and  
15          other revenues must be used; amending s. 185.02, F.S.;  
16          revising definitions to conform to changes made by the  
17          act; deleting a provision allowing a local law plan to  
18          limit the amount of overtime payments which can be  
19          used for retirement benefit calculations; amending s.  
20          185.07, F.S.; providing for an additional mandatory  
21          payment by the municipality to the municipal police  
22          officers' retirement trust fund; amending s. 185.35,  
23          F.S., relating to municipalities that have their own  
24          pension plans for police officers and want to  
25          participate in the distribution of a tax fund;  
26          revising definitions; specifying a payment that must  
27          be made by the municipality into the defined benefit  
28          plan; revising how income from the premium tax and  
29          other revenues must be used; providing a declaration

29-00459A-13

2013458

30 of important state interest; providing an effective  
31 date.

32  
33 Be It Enacted by the Legislature of the State of Florida:

34  
35 Section 1. Subsections (11) and (17) of section 175.032,  
36 Florida Statutes, are amended to read:

37 175.032 Definitions.—For any municipality, special fire  
38 control district, chapter plan, local law municipality, local  
39 law special fire control district, or local law plan under this  
40 chapter, the following words and phrases have the following  
41 meanings:

42 (11) "Local law plan" means a defined benefit pension plan  
43 for firefighters, or for firefighters or police officers if both  
44 are ~~where~~ included, as described in s. 175.351, established by  
45 municipal ordinance, special district resolution, or special act  
46 of the Legislature, which ~~enactment~~ sets forth all plan  
47 provisions. Local law plan provisions may vary from the  
48 provisions of this chapter if the, ~~provided that required~~  
49 minimum benefits as defined in s. 175.351(1) and minimum  
50 standards of this chapter are met. However, any such variance  
51 must ~~shall~~ provide a greater benefit for firefighters. Actuarial  
52 valuations of local law plans shall be conducted by an enrolled  
53 actuary as provided in s. 175.261(2).

54 (17) "Supplemental plan" means a plan to which deposits are  
55 made to provide extra benefits for firefighters, or for  
56 firefighters and police officers if both are ~~where~~ included,  
57 under this chapter. Such a plan is an element of a local law  
58 plan and exists in conjunction with a defined benefit plan that

29-00459A-13

2013458

59 meets the minimum benefits as defined in s. 175.351(1) and  
60 minimum standards of this chapter.

61 Section 2. Paragraphs (e), (f), and (g) of subsection (1)  
62 of section 175.091, Florida Statutes, are redesignated as  
63 paragraphs (f), (g), and (h), respectively, and a new paragraph  
64 (e) is added to that subsection, to read:

65 175.091 Creation and maintenance of fund.—For any  
66 municipality, special fire control district, chapter plan, local  
67 law municipality, local law special fire control district, or  
68 local law plan under this chapter:

69 (1) The firefighters' pension trust fund in each  
70 municipality and in each special fire control district shall be  
71 created and maintained in the following manner:

72 (e) By mandatory payment by the municipality or special  
73 fire control district of the difference between the mandatory  
74 payment required under paragraph (d) for the most recent plan  
75 year ending before March 1, 2013, and the current plan year.  
76 This paragraph may not be construed to reduce the aggregate  
77 mandatory payment below the sum required under paragraph (d).

78  
79 Nothing in this section shall be construed to require adjustment  
80 of member contribution rates in effect on the date this act  
81 becomes a law, including rates that exceed 5 percent of salary,  
82 provided that such rates are at least one-half of 1 percent of  
83 salary.

84 Section 3. Section 175.351, Florida Statutes, is amended to  
85 read:

86 175.351 Municipalities and special fire control districts  
87 that have ~~having~~ their own pension plans for firefighters. ~~For~~

29-00459A-13

2013458

88 ~~any municipality, special fire control district, local law~~  
89 ~~municipality, local law special fire control district, or local~~  
90 ~~law plan under this chapter,~~ In order for a municipality or  
91 ~~municipalities and special fire control~~ district that has its  
92 ~~districts with their own pension plan plans~~ for firefighters, or  
93 for firefighters and police officers if both are included, to  
94 participate in the distribution of the tax fund established  
95 under pursuant to s. 175.101, the municipality or special fire  
96 control district local law plans must meet the minimum benefits  
97 as defined in subsection (1) and the minimum standards set forth  
98 in this chapter, and comply with subsections (2), (3), and (4).

99 (1) As used in this section, the term:

100 (a) "Additional pension benefits" means those benefits  
101 offered by the plan as of March 1, 2013, which exceed minimum  
102 benefits, but excluding benefits offered in a supplemental plan.

103 (b) "Annual costs" means the total of the normal costs of  
104 the plan and the costs associated with amortizing any unfunded  
105 actuarial liability of the plan.

106 (c) "Minimum benefits" means the lesser of the benefits  
107 provided in the defined benefit plan as of March 1, 2013, or the  
108 benefits described in s. 175.162 as of March 1, 2013.

109 (d) "Supplemental benefits" means those benefits provided  
110 in a defined contribution plan.

111 ~~(1) If a municipality has a pension plan for firefighters,~~  
112 ~~or a pension plan for firefighters and police officers if~~  
113 ~~included, which in the opinion of the division meets the minimum~~  
114 ~~benefits and minimum standards set forth in this chapter, the~~  
115 ~~board of trustees of the pension plan, as approved by a majority~~  
116 ~~of firefighters of the municipality, may:~~

29-00459A-13

2013458

117 ~~(a) Place the income from the premium tax in s. 175.101 in~~  
118 ~~such pension plan for the sole and exclusive use of its~~  
119 ~~firefighters, or for firefighters and police officers if~~  
120 ~~included, where it shall become an integral part of that pension~~  
121 ~~plan and shall be used to pay extra benefits to the firefighters~~  
122 ~~included in that pension plan; or~~

123 ~~(b) Place the income from the premium tax in s. 175.101 in~~  
124 ~~a separate supplemental plan to pay extra benefits to~~  
125 ~~firefighters, or to firefighters and police officers if~~  
126 ~~included, participating in such separate supplemental plan.~~

127 (2) The municipality or special fire control district  
128 shall, at a minimum, contribute into the defined benefit plan  
129 the mandatory payment required under s. 175.091(1)(d) which the  
130 municipality or special fire control district contributed for  
131 the most recent plan year ending before March 1, 2013. The  
132 amount of the mandatory payment may be reduced to the sum  
133 required under s. 175.091(1)(d) if the plan has no actuarial  
134 deficiency as shown in the latest actuarial valuation of the  
135 plan.

136 (3)-(2) The premium tax provided by this chapter shall ~~in~~  
137 ~~all cases~~ be used in its entirety to provide retirement extra  
138 benefits to firefighters, or to firefighters and police officers  
139 if both are included, after using all other revenues, including  
140 mandatory payments by the municipality or special fire control  
141 district, employee contributions, and investment earnings  
142 received by the plan, in the following order:

143 (a) The annual insurance premium revenues shall be used  
144 first to meet the annual costs associated with providing the  
145 minimum benefits set forth in this section.

29-00459A-13

2013458

146 (b) The annual insurance premium revenues shall be used  
147 next to meet the annual costs associated with any additional  
148 pension benefits.

149 (c) If the plan has an actuarial deficiency as shown in the  
150 latest actuarial valuation of the plan, 50 percent of the annual  
151 insurance premium revenues remaining after the uses specified in  
152 paragraphs (a) and (b) shall be allocated as additional  
153 contributions to fund such deficiency.

154 (d) Any annual insurance premium revenues remaining after  
155 the uses specified in paragraphs (a), (b), and (c) shall be used  
156 to provide supplemental benefits. However, local law plans in  
157 effect on October 1, 1998, must comply with the minimum benefit  
158 provisions of this chapter only to the extent that additional  
159 premium tax revenues become available to incrementally fund the  
160 cost of such compliance as provided in s. 175.162(2) (a). If a  
161 plan is in compliance with such minimum benefit provisions, as  
162 subsequent additional premium tax revenues become available,  
163 they must be used to provide extra benefits. Local law plans  
164 created by special act before May 27, 1939, are deemed to comply  
165 with this chapter. For the purpose of this chapter, the term:

166 (a) "Additional premium tax revenues" means revenues  
167 received by a municipality or special fire control district  
168 pursuant to s. 175.121 which exceed that amount received for  
169 calendar year 1997.

170 (b) "Extra benefits" means benefits in addition to or  
171 greater than those provided to general employees of the  
172 municipality and in addition to those in existence for  
173 firefighters on March 12, 1999.

174 (4) Insurance premium tax revenues may not be used to fund

29-00459A-13

2013458

175 benefits provided in a defined benefit plan which were not  
176 provided by the plan as of March 1, 2013.

177 (5)~~(3)~~ A retirement plan or amendment to a retirement plan  
178 may not be proposed for adoption unless the proposed plan or  
179 amendment contains an actuarial estimate of the costs involved.  
180 Such proposed plan or proposed plan change may not be adopted  
181 without the approval of the municipality, special fire control  
182 district, or, where permitted, the Legislature. Copies of the  
183 proposed plan or proposed plan change and the actuarial impact  
184 statement of the proposed plan or proposed plan change shall be  
185 furnished to the division before the last public hearing  
186 thereon. Such statement must also indicate whether the proposed  
187 plan or proposed plan change is in compliance with s. 14, Art. X  
188 of the State Constitution and those provisions of part VII of  
189 chapter 112 which are not expressly provided in this chapter.  
190 Notwithstanding any other provision, only those local law plans  
191 created by special act of legislation before May 27, 1939, are  
192 deemed to meet the minimum benefits and minimum standards only  
193 in this chapter.

194 (6)~~(4)~~ Notwithstanding any other provision, with respect to  
195 any supplemental plan municipality:

196 (a) A local law plan and a supplemental plan may continue  
197 to use their definition of compensation or salary in existence  
198 on March 12, 1999.

199 (b) Section 175.061(1)(b) does not apply, and a local law  
200 plan and a supplemental plan shall continue to be administered  
201 by a board or boards of trustees numbered, constituted, and  
202 selected as the board or boards were numbered, constituted, and  
203 selected on December 1, 2000.

29-00459A-13

2013458

204       ~~(c) The election set forth in paragraph (1)(b) is deemed to~~  
205 ~~have been made.~~

206       (7)~~(5)~~ The retirement plan setting forth the benefits and  
207 the trust agreement, if any, covering the duties and  
208 responsibilities of the trustees and the rules governing  
209 ~~regulations of~~ the investment of funds must be in writing, and  
210 copies made available to the participants and to the general  
211 public.

212       Section 4. Subsections (4), (10), and (15) of section  
213 185.02, Florida Statutes, are amended to read:

214       185.02 Definitions.—For any municipality, chapter plan,  
215 local law municipality, or local law plan under this chapter,  
216 the following words and phrases as used in this chapter shall  
217 have the following meanings, unless a different meaning is  
218 plainly required by the context:

219       (4) "Compensation" or "salary" means, for noncollectively  
220 bargained service earned before July 1, 2011, or for service  
221 earned under collective bargaining agreements in place before  
222 July 1, 2011, the total cash remuneration including "overtime"  
223 paid by the primary employer to a police officer for services  
224 rendered, but not including any payments for extra duty or  
225 special detail work performed on behalf of a second party  
226 employer. ~~A local law plan may limit the amount of overtime~~  
227 ~~payments which can be used for retirement benefit calculation~~  
228 ~~purposes; however, such overtime limit may not be less than 300~~  
229 ~~hours per officer per calendar year.~~ For noncollectively  
230 bargained service earned on or after July 1, 2011, or for  
231 service earned under collective bargaining agreements entered  
232 into on or after July 1, 2011, the term has the same meaning

29-00459A-13

2013458

233 except that when calculating retirement benefits, up to 300  
234 hours per year in overtime compensation may be included as  
235 specified in the plan or collective bargaining agreement, but  
236 payments for accrued unused sick or annual leave may not be  
237 included.

238 (a) Any retirement trust fund or plan that meets the  
239 requirements of this chapter does not, solely by virtue of this  
240 subsection, reduce or diminish the monthly retirement income  
241 otherwise payable to each police officer covered by the  
242 retirement trust fund or plan.

243 (b) The member's compensation or salary contributed as  
244 employee-elective salary reductions or deferrals to any salary  
245 reduction, deferred compensation, or tax-sheltered annuity  
246 program authorized under the Internal Revenue Code shall be  
247 deemed to be the compensation or salary the member would receive  
248 if he or she were not participating in such program and ~~shall be~~  
249 treated as compensation for retirement purposes under this  
250 chapter.

251 (c) For any person who first becomes a member in any plan  
252 year beginning on or after January 1, 1996, compensation for  
253 that plan year may not include any amounts in excess of the  
254 Internal Revenue Code s. 401(a)(17) limitation, as amended by  
255 the Omnibus Budget Reconciliation Act of 1993, which limitation  
256 of \$150,000 shall be adjusted as required by federal law for  
257 qualified government plans and ~~shall be~~ further adjusted for  
258 changes in the cost of living in the manner provided by Internal  
259 Revenue Code s. 401(a)(17)(B). For any person who first became a  
260 member before the first plan year beginning on or after January  
261 1, 1996, the limitation on compensation may not be less than the

29-00459A-13

2013458

262 maximum compensation amount that was allowed to be taken into  
263 account under the plan ~~as~~ in effect on July 1, 1993, which  
264 limitation shall be adjusted for changes in the cost of living  
265 since 1989 in the manner provided by Internal Revenue Code s.  
266 401(a)(17)(1991).

267 (10) "Local law plan" means a defined benefit pension plan  
268 for police officers, or for police officers and firefighters if  
269 both are, where included, as described in s. 185.35, established  
270 by municipal ordinance or special act of the Legislature, which  
271 ~~enactment~~ sets forth all plan provisions. Local law plan  
272 provisions may vary from the provisions of this chapter if the,  
273 ~~provided that required~~ minimum benefits as defined in s.  
274 185.35(1) and minimum standards of this chapter are met.  
275 However, any such variance must ~~shall~~ provide a greater benefit  
276 for police officers. Actuarial valuations of local law plans  
277 shall be conducted by an enrolled actuary as provided in s.  
278 185.221(2)(b).

279 (15) "Supplemental plan" means a plan to which deposits of  
280 the premium tax moneys as provided in s. 185.08 are made to  
281 provide extra benefits to police officers, or police officers  
282 and firefighters if both are ~~where~~ included, under this chapter.  
283 Such ~~a~~ plan is an element of a local law plan and exists in  
284 conjunction with a defined benefit plan that meets the minimum  
285 benefits as defined in s. 185.35(1) and minimum standards of  
286 this chapter.

287 Section 5. Paragraphs (e), (f), and (g) of subsection (1)  
288 of section 185.07, Florida Statutes, are redesignated as  
289 paragraphs (f), (g), and (h), respectively, and a new paragraph  
290 (e) is added to that subsection, to read:

29-00459A-13

2013458

291           185.07 Creation and maintenance of fund.—For any  
292 municipality, chapter plan, local law municipality, or local law  
293 plan under this chapter:

294           (1) The municipal police officers' retirement trust fund in  
295 each municipality described in s. 185.03 shall be created and  
296 maintained in the following manner:

297           (e) By mandatory payment by the municipality of the  
298 difference between the mandatory payment required by paragraph  
299 (d) for the most recent plan year ending before March 1, 2013,  
300 and the current plan year. This paragraph may not be construed  
301 to reduce the aggregate mandatory payment by the municipality  
302 below the sum required by paragraph (d).

303  
304 Nothing in this section shall be construed to require adjustment  
305 of member contribution rates in effect on the date this act  
306 becomes a law, including rates that exceed 5 percent of salary,  
307 provided that such rates are at least one-half of 1 percent of  
308 salary.

309           Section 6. Section 185.35, Florida Statutes, is amended to  
310 read:

311           185.35 Municipalities that have ~~having~~ their own pension  
312 plans for police officers. ~~For any municipality, chapter plan,~~  
313 ~~local law municipality, or local law plan under this chapter,~~ In  
314 order for a municipality that has its ~~municipalities with their~~  
315 own pension plan ~~plans~~ for police officers, or for police  
316 officers and firefighters if both are included, to participate  
317 in the distribution of the tax fund established pursuant to s.  
318 185.08, the municipality ~~local law plans~~ must meet the minimum  
319 benefits as defined in subsection (1) and the minimum standards

29-00459A-13

2013458

320 set forth in this chapter, and comply with subsections (2), (3),  
321 and (4).÷

322 (1) As used in this subsection, the term:

323 (a) "Additional pension benefits" means those benefits  
324 offered by the plan as of March 1, 2013, which exceed minimum  
325 benefits, but excluding benefits offered in a supplemental plan.

326 (b) "Annual costs" means the total of the normal costs of  
327 the plan and the costs associated with amortizing any unfunded  
328 actuarial liability of the plan.

329 (c) "Minimum benefits" means the lesser of the benefits  
330 provided in the defined benefit plan as of March 1, 2013, or the  
331 benefits described in s. 185.16 as of March 1, 2013.

332 (d) "Supplemental benefits" means those benefits provided  
333 in a defined contribution plan.

334 ~~(1) If a municipality has a pension plan for police~~  
335 ~~officers, or for police officers and firefighters if included,~~  
336 ~~which, in the opinion of the division, meets the minimum~~  
337 ~~benefits and minimum standards set forth in this chapter, the~~  
338 ~~board of trustees of the pension plan, as approved by a majority~~  
339 ~~of police officers of the municipality, may:~~

340 ~~(a) Place the income from the premium tax in s. 185.08 in~~  
341 ~~such pension plan for the sole and exclusive use of its police~~  
342 ~~officers, or its police officers and firefighters if included,~~  
343 ~~where it shall become an integral part of that pension plan and~~  
344 ~~shall be used to pay extra benefits to the police officers~~  
345 ~~included in that pension plan; or~~

346 ~~(b) May place the income from the premium tax in s. 185.08~~  
347 ~~in a separate supplemental plan to pay extra benefits to the~~  
348 ~~police officers, or police officers and firefighters if~~

29-00459A-13

2013458

349 ~~included, participating in such separate supplemental plan.~~

350 (2) The municipality shall, at a minimum, contribute to the  
351 defined benefit plan the mandatory payment required under s.  
352 185.07(1)(d) which the municipality contributed for the most  
353 recent plan year ending before March 1, 2013. The amount of the  
354 mandatory payment may be reduced to the sum required under s.  
355 185.07(1)(d) if the plan has no actuarial deficiency as shown in  
356 the latest actuarial valuation of the plan.

357 (3) ~~(2)~~ The premium tax provided by this chapter shall in  
358 all cases be used in its entirety to provide retirement extra  
359 benefits to police officers, or to police officers and  
360 firefighters if both are included, after using all other  
361 revenues, including mandatory payments by the municipality,  
362 employee contributions, and investment earnings received by the  
363 plan, in the following order:

364 (a) The annual insurance premium revenues shall be used  
365 first to meet the annual costs associated with providing the  
366 minimum benefits set forth in this section.

367 (b) The annual insurance premium revenues shall be used  
368 next to meet the annual costs associated with any additional  
369 pension benefits.

370 (c) If the plan has an actuarial deficiency as shown in the  
371 latest actuarial valuation of the plan, 50 percent of the annual  
372 insurance premium revenues remaining after the uses specified in  
373 paragraphs (a) and (b) shall be allocated as additional  
374 contributions to fund such deficiency.

375 (d) Any annual insurance premium revenues remaining after  
376 the uses specified in paragraphs (a), (b), and (c) shall be used  
377 to provide supplemental benefits. However, local law plans in

29-00459A-13

2013458

378 ~~effect on October 1, 1998, must comply with the minimum benefit~~  
379 ~~provisions of this chapter only to the extent that additional~~  
380 ~~premium tax revenues become available to incrementally fund the~~  
381 ~~cost of such compliance as provided in s. 185.16(2). If a plan~~  
382 ~~is in compliance with such minimum benefit provisions, as~~  
383 ~~subsequent additional tax revenues become available, they shall~~  
384 ~~be used to provide extra benefits. Local law plans created by~~  
385 ~~special act before May 27, 1939, shall be deemed to comply with~~  
386 ~~this chapter. For the purpose of this chapter, the term:~~

387 ~~(a) "Additional premium tax revenues" means revenues~~  
388 ~~received by a municipality pursuant to s. 185.10 which exceed~~  
389 ~~the amount received for calendar year 1997.~~

390 ~~(b) "Extra benefits" means benefits in addition to or~~  
391 ~~greater than those provided to general employees of the~~  
392 ~~municipality and in addition to those in existence for police~~  
393 ~~officers on March 12, 1999.~~

394 (4) Insurance premium tax revenues may not be used to fund  
395 benefits provided in a defined benefit plan which were not  
396 provided by the plan as of March 1, 2013.

397 (5)~~(3)~~ A retirement plan or amendment to a retirement plan  
398 may not be proposed for adoption unless the proposed plan or  
399 amendment contains an actuarial estimate of the costs involved.  
400 Such proposed plan or proposed plan change may not be adopted  
401 without the approval of the municipality or, where permitted,  
402 the Legislature. Copies of the proposed plan or proposed plan  
403 change and the actuarial impact statement of the proposed plan  
404 or proposed plan change shall be furnished to the division  
405 before the last public hearing thereon. Such statement must also  
406 indicate whether the proposed plan or proposed plan change is in

29-00459A-13

2013458

407 compliance with s. 14, Art. X of the State Constitution and  
408 those provisions of part VII of chapter 112 which are not  
409 expressly provided in this chapter. Notwithstanding any other  
410 provision, only those local law plans created by special act of  
411 legislation before May 27, 1939, are deemed to meet the minimum  
412 benefits and minimum standards only in this chapter.

413 (6)~~(4)~~ Notwithstanding any other provision, with respect to  
414 any supplemental plan municipality:

415 (a) Section 185.02(4)(a) does not apply, and a local law  
416 plan and a supplemental plan may continue to use their  
417 definition of compensation or salary in existence on March 12,  
418 1999.

419 (b) A local law plan and a supplemental plan must continue  
420 to be administered by a board or boards of trustees numbered,  
421 constituted, and selected as the board or boards were numbered,  
422 constituted, and selected on December 1, 2000.

423 ~~(c) The election set forth in paragraph (1)(b) is deemed to~~  
424 ~~have been made.~~

425 (7)~~(5)~~ The retirement plan setting forth the benefits and  
426 the trust agreement, if any, covering the duties and  
427 responsibilities of the trustees and the rules governing  
428 ~~regulations~~ of the investment of funds must be in writing and  
429 copies made available to the participants and to the general  
430 public.

431 Section 7. The Legislature finds that a proper and  
432 legitimate state purpose is served when employees and retirees  
433 of the state and its political subdivisions, and the dependents,  
434 survivors, and beneficiaries of such employees and retirees, are  
435 extended the basic protections afforded by governmental

29-00459A-13

2013458\_\_

436 retirement systems that provide fair and adequate benefits and  
437 that are managed, administered, and funded in an actuarially  
438 sound manner as required by s. 14, Article X of the State  
439 Constitution and part VII of chapter 112, Florida Statutes.  
440 Therefore, the Legislature determines and declares that this act  
441 fulfills an important state interest.

442 Section 8. This act shall take effect July 1, 2013.