

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 853 Public Retirement Plans
SPONSOR(S): State Affairs Committee; Taylor and McBurney
TIED BILLS: **IDEN./SIM. BILLS:** SB 1246

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	13 Y, 0 N	Harrington	Williamson
2) Finance & Tax Subcommittee	14 Y, 0 N	Pewitt	Langston
3) State Affairs Committee	12 Y, 0 N, As CS	Harrington	Camechis

SUMMARY ANALYSIS

The Marvin B. Clayton Police Officers Pension Trust Fund Act (act) provides a uniform retirement system for the benefit of municipal police officers. All municipal police officer retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of police officers' pension trust funds. The act provides an incentive – access to premium tax revenues – to encourage the establishment of police officer retirement plans by cities. The act only applies to municipalities organized and established by law, and the act does not apply to unincorporated areas of any county or counties.

The bill expands the applicability of the act. It provides that the act applies to municipalities organized as a single consolidated government consisting of a former county and one or more municipalities. The bill requires the consolidated government to notify the Department of Management Services, Division of Retirement, when it enters into an interlocal agreement to provide police services to a municipality within its boundaries. It provides that the municipality may enact an ordinance to levy a premium tax as authorized in law, and the municipality may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

The bill provides an effective date of July 1, 2013.

The Revenue Estimating Conference estimates that the bill will have a negative, insignificant fiscal impact on state government revenues and a positive, insignificant fiscal impact on local government revenues. See Fiscal Comments section for further discussion.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Insurance Premium Tax

The state levies a tax on most insurance premiums. The rate is 1.75 percent for property and casualty, life, accident and health, and prepaid limited health policies; 1.60 percent for commercial self-insurance, group self-insurance, medical malpractice self-insurance, and assessable mutual insurance; and 1.00 percent for annuities. Companies are authorized to claim several credits against the insurance premium tax. The insurance premium tax revenues collected by the state are deposited into the Insurance Regulatory Trust Fund and are deposited into the General Revenue Fund. Insurance premium tax accounted for \$492.3 million in general revenue funds and \$38.8 million in trust fund revenues in fiscal year 2011-2012.

Municipal Police Officers' Retirement Trust Fund

Local police officer pension plans are governed by chapter 185, F.S., which is known as the Marvin B. Clayton Police Officers Pension Trust Fund Act (act).¹ The act declares it a legitimate state purpose to provide a uniform retirement system for the benefit of municipal police officers.² Chapter 185, F.S., was originally enacted in 1953 to provide an incentive – access to premium tax revenues – to encourage the establishment of police officer pension plans by cities.

All municipal police officer retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of police officers' pension trust funds.³ The act sets forth the minimum benefits or minimum standards for pensions for municipal police officers. The benefits provided in the act may not be reduced by municipalities; however, the benefits provided in a local plan may vary from the provisions in that act so long as the minimum standards are met.

Funding for these pension plans comes from four sources:⁴

- Net proceeds from an excise tax levied by a city upon property 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.

Each municipality with a municipal police officers' retirement trust fund is authorized to assess an excise tax of 0.85 percent imposed on the gross premiums on casualty insurance policies covering property within the boundaries of the municipality.⁵ The excise tax is payable by the insurers to the Department of Revenue, and the net proceeds are transferred to the appropriate fund at the Department of Management Services, Division of Retirement (division).⁶ Companies may claim a credit against their state insurance premium tax bill for any amount paid as a result of a local tax levy, meaning that total insurance premium taxes owed do not increase if a local government opts to levy the tax. In 2011, premium tax distributions to municipalities from the Police Officers' Retirement Trust Fund amounted to \$59.6 million. Under current law, a municipality may not receive another municipality's premium tax revenues when there is an interlocal agreement in place to provide police services.⁷

¹ See chapter 185, F.S.

² Section 185.01(1), F.S.

³ See s. 185.01(1), F.S.

⁴ Section 185.07(1), F.S.

⁵ Section 185.08, F.S.

⁶ A copy of the 2011 Premium Tax Distribution report is available online at:

http://www.dms.myflorida.com/human_resource_support/retirement/local_retirement_plans/municipal_police_and_fire_plans.

⁷ Chapter 175, F.S., authorizes a municipality to receive another municipality's premium tax revenues when there is an interlocal agreement in place to provide fire protection services. Section 175.041(3)(c), F.S.

To qualify for insurance premium tax dollars, plans must meet requirements found in chapter 185, F.S. Responsibility for overseeing and monitoring these plans is assigned to the division; however, the day-to-day operational control rests with the local boards of trustees. The board of trustees must invest and reinvest the assets of the fund according to s. 185.06, F.S., as applicable, unless specifically authorized to vary from the law. If the division deems that a police officer pension plan created pursuant to chapter 185, F.S., is not in compliance, the sponsoring municipality could be denied its insurance premium tax revenues.

Consolidation

Consolidation involves combining city and county governments so that the boundaries of the county and affected city or cities become the same. Consolidation can be total or partial. Total consolidation occurs when all independent government units within a county are assimilated into the consolidated government. When some of the governments remain independent, the consolidation is partial.

Section 3, Art. VIII, of the State Constitution, provides:

Consolidation. – The government of a county and the government of one or more municipalities located therein may be consolidated into a single government which may exercise any and all powers of the county and the several municipalities. The consolidation plan may be proposed only by special law, which shall become effective if approved by vote of the electors of the county, or of the county and municipalities affected, as may be provided in the plan. Consolidation shall not extend the territorial scope of taxation for the payment of pre-existing debt except to areas whose residents receive a benefit from the facility or service from which the indebtedness was incurred.

The voters of the City of Jacksonville and Duval County adopted a municipal charter pursuant to this constitutional provision in 1967. Section 9, of Article VIII, of the Constitution of 1885 establishes the Jacksonville/Duval County consolidated charter. This is the only consolidated government in the state.

Effect of the Bill

The bill provides that chapter 185, F.S., applies to municipalities organized as a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution. The bill requires the consolidated government to notify the division when it enters into an interlocal agreement to provide police services to a municipality within its boundaries. It authorizes the municipality to enact an ordinance levying the tax as provided in s. 185.08, F.S., and the municipality may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

The bill provides an effective date of July 1, 2013.

B. SECTION DIRECTORY:

Sections 1. and 2. amend ss. 185.03 and 185.08, F.S., specifying applicability of chapter 185, F.S., to certain consolidated governments; providing that a consolidated government that has entered into an interlocal agreement to provide police protection services to a municipality within its boundaries is eligible to receive the premium taxes reported for the municipality under certain circumstances; authorizing the municipality receiving the police protection services to enact an ordinance levying the tax as provided by law; including certain consolidated governments under provisions authorizing imposition of a state excise tax on casualty insurance premiums covering certain property.

Section 3. provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments section.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments section.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill specifies that a consolidated government is entitled to premium tax distributions provided by chapter 185, F.S. As a result, this bill may have a fiscal impact on state revenues because state premium taxes paid by a casualty insurer to fund a municipal police officers' retirement plan are credited against the premium taxes paid to the state by the insurance company.⁸ The Revenue Estimating Conference met on March 22, 2013, and estimated that this bill would have an insignificant negative impact on state general revenues.

The bill may result in a positive fiscal impact on local governments because the bill provides that a consolidated government may collect premium tax revenues collected by the municipality receiving police protection services if the consolidated government provides a municipal police officer retirement plan, as provided for in chapter 185, F.S. The Revenue Estimating Conference met on March 22, 2013, and estimated that this bill would have an insignificant positive cash and recurring impact on local revenues.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

⁸ Section 624.509(4), F.S.
STORAGE NAME: h0853f.SAC
DATE: 4/18/2013

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 16, 2013, the State Affairs Committee adopted one amendment and reported HB 853 favorably with committee substitute. The committee substitute removes duplicative language from the bill and inserts similar language that conforms the provision to chapter 175, F.S.