

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1291 City of Jacksonville, Duval County

**SPONSOR(S):** McBurney

**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Flegiel	Rojas
2) State Affairs Committee			

### SUMMARY ANALYSIS

The Jacksonville Police and Fire Pension Fund was created by special act in 1937 to provide pension benefits to retired and disabled policemen and firemen. In 1990, the legislature created the Jacksonville Police and Fire Pension Board of Trustees (Board), a five member board responsible for administering the pension fund. The Board has broad enumerated powers to administer the pension fund. In addition to its enumerated powers, the Board has all such powers as it may reasonably determine to be necessary or appropriate to the performance of its duties under the retirement system.

Membership on the Board consists of two members who are city residents appointed by the city council, one member elected by police officers, one member elected by firemen, and the final member selected by a majority of the other four members.

HB 1291 revises the appointment process for the final member on the Board. Under the bill, the final member is chosen by the other four members from a list of three candidates provided by the city council. If the Board fails to select a final member by majority vote, then the first listed candidate shall become a member of the Board.

HB 1291 also revises the enumerated powers of the Board, providing the Board with the power to prepare and submit a budget to the city council. The bill removes the catchall provision which provides the Board with all such powers it may deem reasonably necessary, restricting the Board to its enumerated powers. The bill also removes a provision that declares all Board decisions made in good faith to be final, binding, and conclusive upon all parties concerned.

HB 1291 provides the city council with the power to review, modify and approve the administrative costs for the pension fund in the same manner as it does for all other departments and agencies of the consolidated City of Jacksonville.

The bill provides that the act shall take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED 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.<sup>1</sup> 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 to keep the plan solvent. To qualify for premium tax dollars, plans must meet requirements found in chs. 175 and 185, F.S. Plans created by special act before May 27, 1939, are deemed to meet the

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<sup>1</sup> See s. 112.63, F.S.

minimum benefits and minimum standards contained in chs. 175 and 185, F.S.<sup>2</sup> 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 Jacksonville Fire and Police Pension Fund

In 1915 and 1917 respectively, the City of Jacksonville created separate pension funds for firemen and policemen.<sup>3</sup> In 1937, the city created a combined Pension Fund for Policemen and Firemen.<sup>4</sup> In 1972, the city dissolved the original 1915 and 1917 funds and transferred the assets of the funds into the 1937 pension fund.<sup>5</sup>

The city commission was initially designated as trustee of the 1937 pension fund. In 1973, the mayor, the sheriff, the tax assessor, the director of finance, the personnel manager, and the chairman of the advisory committee to the fund became trustees of the fund.<sup>6</sup> In 1990, the Legislature amended the Charter of the City of Jacksonville and created the Jacksonville Police and Fire Pension Board of Trustees to administer the 1937 pension fund.<sup>7</sup> The charter was readopted in 1992 and has been subsequently amended.<sup>8</sup>

Membership on the Board consists of five members: two are legal residents of the City of Jacksonville appointed by the city council, one is a police officer elected by a majority of police officers who are members of the fund, one is a firefighter elected by a majority of firefighters who are members of the fund, and the last one is chosen by a majority of the previous four members. Members serve four year terms without term limits.<sup>9</sup>

The Board is the sole entity responsible for administering the Jacksonville Police and Fire Pension Fund. The enumerated powers of the Board include the ability to:

- invest and reinvest the assets of the pension fund,
- sue and be sued,
- enter into contracts,
- employ and fix the compensation of an administrator and any consultants, attorneys, actuaries, accountants, and other employees or contractors as the board may require,
- delegate authority to its agents or employees,
- determine all facts with regard to any participant's age, normal retirement date, amount of compensation, length of service and credited service, and date of initial coverage under the pension plan, and, by application, determine a participant's amount of benefit,
- make rules and regulations for the administration of the pension plan which are not inconsistent with the terms and provisions of law,
- construe all terms, provisions, conditions, and limitations of the pension plan; and its construction thereof, made in good faith, shall be final and conclusive upon the interested parties,
- correct any defect or supply any omission or reconcile any inconsistency that may appear in the pension fund and make any equitable adjustments for any mistakes or errors made in the administration of the pension,
- determine all questions relating to the administration of the pension fund in order to promote the uniform administration of the pension fund and to effectuate its purposes and provisions,

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<sup>2</sup> Ch. 175.351(3), F.S., and Ch. 185.35(3), F.S.

<sup>3</sup> Ch. 7175, L.O.F. (1915) and Ch. 7657, L.O.F. (1917).

<sup>4</sup> Ch. 18615, L.O.F. (1937).

<sup>5</sup> Ch. 72-541, L.O.F. (1972).

<sup>6</sup> Ch. 73-500, L.O.F. (1973).

<sup>7</sup> Ch. 90-441, L.O.F. (1990).

<sup>8</sup> Article 22, City of Jacksonville Charter, S. 1, Ch. 92-341, L.O.F., as amended.

<sup>9</sup> Article 22.02, City of Jacksonville Charter, S. 1, Ch. 92-341, L.O.F., as amended.

- authorize and direct the payment from the pension fund of all expenses and fees incurred in the administration of the pension fund,
- require such information as may be necessary for the proper operation of the system from any participant, beneficiary, or officer, department head, or other person or persons in authority, as the case may be, of any employer,
- cause a general investigation to be made by a competent actuary and at least once every 3 years or as required by law thereafter of the retirement, disability, separation, mortality, interest, and employee earning rates; recommend, as a result of such investigation, the tables to be adopted for all required actuarial calculations; cause an annual determination to be made by a competent actuarial of the liabilities and reserves of the pension plan and the annual determination of the amount of the contributions required by the City; and maintain the funds of the pension plan on a sound actuarial basis. A copy of this actuarial study shall be furnished to the city council by the Board immediately upon its receipt, and
- cause an audit of the affairs of the pension plan to be made annually by an independent certified public accountant, and submit a copy thereof to all interested parties as soon as possible after the end of the fiscal year.

The act explicitly states that the Board's enumerated powers are not intended to be either complete or exclusive, and that the Board shall, in addition, have all such powers as it may reasonably determine to be necessary or appropriate to the performance of its duties under the retirement system. Furthermore, any decision or judgment of the Board in good faith on any questions arising hereunder in connection with the exercise of its powers shall be final, binding, and conclusive upon all parties concerned.<sup>10</sup>

Because the fund was created in 1937, it is deemed to meet the minimum benefits and minimum standards outlined in chapters 175 and 185.<sup>11</sup>

### **Effect of Proposed Changes**

HB 1291 revises the membership of the Board. The bill removes a provision requiring the selection of one member by the other four members of the Board. The bill adds a provision requiring the selection of one member by the other four members of the board from a list of three candidates provided by the city council. In the event the four members of the board cannot select a member from the three candidates by majority vote, the first listed nominee shall be deemed selected.

The bill grants the Board the power to submit an annual budget to the mayor and the city council.

The bill grants the city council the power to review, modify and approve the administrative costs of the Jacksonville Police and Fire Pension Fund, as is consistent with all other city departments and agencies of the consolidated city.

The bill removes language stating that the Board's enumerated powers are not intended to be either complete or exclusive, and that the Board shall, in addition, have all such powers as it may reasonably determine to be necessary or appropriate to the performance of its duties under the retirement system. The bill also removes the provision that any decision or judgment of the Board in good faith on any questions arising hereunder in connection with the exercise of its powers shall be final, binding, and conclusive upon all parties concerned.

## **B. SECTION DIRECTORY:**

Section 1 amends section 22 of the City of Jacksonville Charter found in S. 1, Ch. 92-341, L.O.F., as amended, relating to the Jacksonville Police and Fire Pension Board of Trustees; revises Board Membership; revises powers of the Board; grants the city the power to review, modify and approve the administrative costs of the Board; deletes unspecified powers of the Board.

<sup>10</sup> Article 22.04, City of Jacksonville Charter, S. 1, Ch. 92-341, L.O.F., as amended.

<sup>11</sup> Ch. 175.351(3), F.S., and Ch. 185.35(3), F.S.

Section 2 provides that the bill shall take effect upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 29, 2014

WHERE? *The Financial News and Daily Record*, A daily publication, except Saturday and Sunday, published at Jacksonville, in Duval County, FL.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? n/a

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A