

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1279 (2015)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)

ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)

ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)

FAILED TO ADOPT \_\_\_\_\_ (Y/N)

WITHDRAWN \_\_\_\_\_ (Y/N)

OTHER

---

1 Committee/Subcommittee hearing bill: State Affairs Committee  
2 Representative Adkins offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 175.061, Florida Statutes, is amended  
7 to read:

8 175.061 Board of trustees; members; terms of office;  
9 meetings; legal entity; costs; attorney's fees.—For any  
10 municipality, special fire control district, chapter plan, local  
11 law municipality, local law special fire control district, ~~or~~  
12 local law plan under this chapter, or local law plan created by  
13 special act before May 27, 1939:

14 (1) In each municipality and in each special fire control  
15 district there is hereby created a board of trustees of the  
16 firefighters' pension trust fund, which shall be solely

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17 responsible for administering the trust fund. Effective October  
18 1, 1986, and thereafter:

19 (a) The membership of the board of trustees for a chapter  
20 plan, whose members shall serve staggered terms, consists of  
21 five members, two of whom, unless otherwise prohibited by law,  
22 must be legal residents of the municipality or special fire  
23 control district and must be appointed by the governing body of  
24 the municipality or special fire control district, and two of  
25 whom must be full-time firefighters as defined in s. 175.032 who  
26 are elected by a majority of the active firefighters who are  
27 members of such plan. With respect to any chapter plan or local  
28 law plan that, on January 1, 1997, allowed retired firefighters  
29 to vote in such elections, retirees may continue to vote in such  
30 elections. The fifth member must not be a member, retiree,  
31 beneficiary, or payee of the pension plan and shall be chosen by  
32 a majority of the previous four members as provided herein, and  
33 such person's name shall be submitted to the governing body of  
34 the municipality or special fire control district. Upon receipt  
35 of the fifth person's name, the governing body of the  
36 municipality or special fire control district shall, as a  
37 ministerial duty, appoint such person to the board of trustees.  
38 The fifth member shall have the same rights as each of the other  
39 four members, shall serve as trustee for a period of 2 years,  
40 and may succeed himself or herself in office. Each resident  
41 member shall serve as trustee for a period of 2 years, unless  
42 sooner replaced by the governing body at whose pleasure he or

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43 she serves, and may succeed himself or herself as a trustee.  
44 Each firefighter member shall serve as trustee for a period of 2  
45 years, unless he or she sooner leaves the employment of the  
46 municipality or special fire control district as a firefighter,  
47 whereupon a successor shall be chosen in the same manner as an  
48 original appointment. Each firefighter may succeed himself or  
49 herself in office. The terms of office of the appointed and  
50 elected members may be amended by municipal ordinance, special  
51 act of the Legislature, or resolution adopted by the governing  
52 body of the special fire control district to extend the terms  
53 from 2 years to 4 years. The length of the terms of office shall  
54 be the same for all board members, and a board member may not  
55 serve on the board for more than 8 consecutive years.

56 (b) The membership of boards of trustees for local law  
57 plans shall be as follows:

58 1. If a municipality or special fire control district has  
59 a pension plan for firefighters only, the provisions of  
60 paragraph (a) apply.

61 2. If a municipality has a pension plan for firefighters  
62 and police officers, the provisions of paragraph (a) apply,  
63 except that in a municipality with a population of 800,000 or  
64 more, the board of trustees shall consist of nine members, four  
65 of whom shall be appointed by the governing body of the  
66 municipality, two of whom ~~one member of the board~~ must be  
67 firefighters ~~a firefighter~~ and two of whom ~~one member of the~~  
68 board must be a police officers ~~officer~~ as defined in s. 185.02,

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69 respectively elected by a majority of the active firefighters or  
70 police officers who are members of the plan.

71 3. A board of trustees operating a local law plan on July  
72 1, 1999, which is combined with a plan for general employees  
73 shall hold an election of the firefighters, or firefighters and  
74 police officers, if included, to determine whether a plan is to  
75 be established for firefighters only, or for firefighters and  
76 police officers where included. Based on the election results, a  
77 new board shall be established as provided in subparagraph 1. or  
78 subparagraph 2., as appropriate. The municipality or fire  
79 control district shall enact an ordinance or resolution to  
80 implement the new board by October 1, 1999. The newly  
81 established board shall take whatever action is necessary to  
82 determine the amount of assets attributable to firefighters, or  
83 firefighters and police officers where included. Such assets  
84 include all employer, employee, and state contributions made by  
85 or on behalf of firefighters, or firefighters and police  
86 officers where included, and any investment income derived from  
87 such contributions. All such moneys shall be transferred into  
88 the newly established retirement plan, as directed by the board.

89  
90 ~~With respect to a board of trustees operating a local law plan~~  
91 ~~on June 30, 1986, this paragraph does not permit the reduction~~  
92 ~~of the membership percentage of firefighters, or of firefighters~~  
93 ~~and police officers where a joint or mixed fund exists. However,~~  
94 ~~for the sole purpose of changing municipal representation, a~~

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95 ~~municipality may by ordinance change the municipal~~  
96 ~~representation on the board of trustees operating a local law~~  
97 ~~plan by ordinance, only if such change does not reduce the~~  
98 ~~membership percentage of firefighters, or firefighters and~~  
99 ~~police officers, or the membership percentage of the municipal~~  
100 ~~representation.~~

101 (c) Whenever the active firefighter membership of a closed  
102 chapter plan or closed local law plan as provided in s. 175.371  
103 falls below 10, an active firefighter member seat may be held by  
104 either a retired member or an active firefighter member of the  
105 plan who is elected by the active and retired members of the  
106 plan. If there are no active or retired firefighters remaining  
107 in the plan or capable of serving, the remaining board members  
108 may elect an individual to serve in the active firefighter seat.  
109 Upon receipt of such person's name, the legislative body of the  
110 municipality or special fire control district shall, as a  
111 ministerial duty, appoint such person to the board of trustees.  
112 This paragraph applies only to those plans that are closed to  
113 new members under s. 175.371(2), and does not apply to any other  
114 municipality or fire control district having a chapter or local  
115 law plan.

116 (2) The trustees shall by a majority vote elect from their  
117 number a chair and a secretary. The secretary of the board shall  
118 keep a complete minute book of the actions, proceedings, or  
119 hearings of the board. The trustees shall not receive any

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120 compensation as such, but may receive expenses and per diem as  
121 provided by Florida law.

122 (3) The board of trustees shall meet at least quarterly  
123 each year.

124 (4) Each board of trustees shall be a legal entity with,  
125 in addition to other powers and responsibilities contained  
126 herein, the power to bring and defend lawsuits of every kind,  
127 nature, and description.

128 (5) In any judicial proceeding or administrative  
129 proceeding under chapter 120 brought under or pursuant to the  
130 provisions of this chapter, the prevailing party shall be  
131 entitled to recover the costs thereof, together with reasonable  
132 attorney's fees.

133 (6) The provisions of this section may not be altered by a  
134 participating municipality or special fire control district  
135 operating a chapter plan or local law plan under this chapter.

136 (7) The board of trustees may, upon written request of the  
137 retiree of the plan, or by a dependent, if authorized by the  
138 retiree or the retiree's beneficiary, authorize the plan  
139 administrator to withhold from the monthly retirement payment  
140 funds that are necessary to pay for the benefits being received  
141 through the governmental entity from which the employee retired,  
142 to pay the certified bargaining agent of the governmental  
143 entity, and to make any payments for child support or alimony.  
144 Upon the written request of the retiree of the plan, the board  
145 may also authorize the plan administrator to withhold from the

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146 retirement payment those funds necessary to pay for premiums for  
147 accident, health, and long-term care insurance for the retiree  
148 and the retiree's spouse and dependents. A retirement plan does  
149 not incur liability for participation in this permissive program  
150 if its actions are taken in good faith.

151 (8) The board of trustees shall establish qualifications  
152 for the plan administrator. At a minimum, the qualifications  
153 shall require that the individual have a bachelor's or higher  
154 degree from an accredited college or university and be approved  
155 by a majority plus one vote of the plan sponsor.

156 (9) The governing body of a municipality may terminate a  
157 plan administrator's pension or retirement plan if any provision  
158 of such pension or retirement plan is found unlawful by a court  
159 of competent jurisdiction.

160 (10) Notwithstanding s. 175.351(2) and (3), a local law  
161 plan created by special act before May 27, 1939, must comply  
162 with this section.

163 Section 2. Subsection (6) is added to section 175.351,  
164 Florida Statutes, to read:

165 175.351 Municipalities and special fire control districts  
166 having their own pension plans for firefighters.—For any  
167 municipality, special fire control district, local law  
168 municipality, local law special fire control district, or local  
169 law plan under this chapter, in order for municipalities and  
170 special fire control districts with their own pension plans for  
171 firefighters, or for firefighters and police officers if

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172 included, to participate in the distribution of the tax fund  
173 established pursuant to s. 175.101, local law plans must meet  
174 the minimum benefits and minimum standards set forth in this  
175 chapter.

176 (6) (a) A municipality having its own pension plan that has  
177 an assets-to-liabilities ratio, using the most recent plan  
178 actuarial report, of 50 percent or less, shall, every 3 years,  
179 conduct an internal audit of the plan's management and  
180 accounting practices and investments. The audit shall be paid  
181 for by the board of trustees of the pension trust fund. The  
182 results of the audit shall be provided to the municipality and  
183 the Department of Management Services.

184 (b) Notwithstanding subsections (2) and (3), a local law  
185 plan created by special act before May 27, 1939, must comply  
186 with this subsection.

187 Section 3. Section 185.05, Florida Statutes, is amended to  
188 read:

189 185.05 Board of trustees; members; terms of office;  
190 meetings; legal entity; costs; attorney's fees.—For any  
191 municipality, chapter plan, local law municipality, ~~or~~ local law  
192 plan under this chapter, or a local law plan created by special  
193 act before May 27 1939:

194 (1) In each municipality described in s. 185.03 there is  
195 hereby created a board of trustees of the municipal police  
196 officers' retirement trust fund, which shall be solely



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197 responsible for administering the trust fund. Effective October  
198 1, 1986, and thereafter:

199 (a) The membership of the board of trustees for chapter  
200 plans, whose members shall serve staggered terms, consists of  
201 five members, two of whom, unless otherwise prohibited by law,  
202 must be legal residents of the municipality and must be  
203 appointed by the legislative body of the municipality, and two  
204 of whom must be police officers as defined in s. 185.02 who are  
205 elected by a majority of the active police officers who are  
206 members of such plan. With respect to any chapter plan or local  
207 law plan that, on January 1, 1997, allowed retired police  
208 officers to vote in such elections, retirees may continue to  
209 vote in such elections. The fifth member must not be a member,  
210 retiree, beneficiary, or payee of such plan and shall be chosen  
211 by a majority of the previous four members, and such person's  
212 name shall be submitted to the legislative body of the  
213 municipality. Upon receipt of the fifth person's name, the  
214 legislative body shall, as a ministerial duty, appoint such  
215 person to the board of trustees. The fifth member shall have the  
216 same rights as each of the other four members appointed or  
217 elected, shall serve as trustee for a period of 2 years, and may  
218 succeed himself or herself in office. Each resident member shall  
219 serve as trustee for a period of 2 years, unless sooner replaced  
220 by the legislative body at whose pleasure the member serves, and  
221 may succeed himself or herself as a trustee. Each police officer  
222 member shall serve as trustee for a period of 2 years, unless he

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223 or she sooner leaves the employment of the municipality as a  
224 police officer, whereupon a successor shall be chosen in the  
225 same manner as an original appointment. Each police officer may  
226 succeed himself or herself in office. The terms of office of the  
227 appointed and elected members of the board of trustees may be  
228 amended by municipal ordinance or special act of the Legislature  
229 to extend the terms from 2 years to 4 years. The length of the  
230 terms of office shall be the same for all board members, and a  
231 board member may not serve on the board for more than 8  
232 consecutive years.

233 (b) The membership of boards of trustees for local law  
234 plans is as follows:

235 1. If a municipality has a pension plan for police  
236 officers only, the provisions of paragraph (a) shall apply.

237 2. If a municipality has a pension plan for police  
238 officers and firefighters, the provisions of paragraph (a)  
239 apply, except that in a municipality with a population of  
240 800,000 or more, the board of trustees shall consist of nine  
241 members, four of whom shall be appointed by the governing body  
242 of the municipality, two of whom ~~one member of the board~~ shall  
243 be police officers, a ~~police officer~~ and two of whom ~~one member~~  
244 shall be firefighters a ~~firefighter~~ as defined in s. 175.032,  
245 respectively, elected by a majority of the active firefighters  
246 and police officers who are members of the plan.

247 3. Any board of trustees operating a local law plan on  
248 July 1, 1999, which is combined with a plan for general

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249 employees shall hold an election of the police officers, or  
250 police officers and firefighters if included, to determine  
251 whether a plan is to be established for police officers only, or  
252 for police officers and firefighters where included. Based on  
253 the election results, a new board shall be established as  
254 provided in subparagraph 1. or subparagraph 2., as appropriate.  
255 The municipality shall enact an ordinance to implement the new  
256 board by October 1, 1999. The newly established board shall take  
257 whatever action is necessary to determine the amount of assets  
258 which is attributable to police officers, or police officers and  
259 firefighters where included. Such assets shall include all  
260 employer, employee, and state contributions made by or on behalf  
261 of police officers, or police officers and firefighters where  
262 included, and any investment income derived from such  
263 contributions. All such moneys shall be transferred into the  
264 newly established retirement plan, as directed by the board.

265  
266 ~~With respect to any board of trustees operating a local law plan~~  
267 ~~on June 30, 1986, this paragraph does not permit the reduction~~  
268 ~~of the membership percentage of police officers or police~~  
269 ~~officers and firefighters. However, for the sole purpose of~~  
270 ~~changing municipal representation, a municipality may by~~  
271 ~~ordinance change the municipal representation on the board of~~  
272 ~~trustees operating a local law plan by ordinance, only if such~~  
273 ~~change does not reduce the membership percentage of police~~

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274 ~~officers, or police officers and firefighters, or the membership~~  
275 ~~percentage of the municipal representation.~~

276 (c) Whenever the active police officer membership of a  
277 closed chapter plan or closed local law plan as provided in s.  
278 185.38 falls below 10, an active police officer member seat may  
279 be held by either a retired police officer or an active police  
280 officer member of the plan who is elected by the active and  
281 retired members of the plan. If there are no active or retired  
282 police officers remaining in the plan or capable of serving, the  
283 remaining board members may elect an individual to serve in the  
284 active police officer member seat. Upon receipt of such person's  
285 name, the legislative body of the municipality shall, as a  
286 ministerial duty, appoint such person to the board of trustees.  
287 This paragraph applies only to those plans that are closed to  
288 new members under s. 185.38(2), and does not apply to any other  
289 municipality having a chapter or local law plan.

290 (d) If the chapter plan or local law plan with an active  
291 membership of 10 or more is closed to new members, the member  
292 seats may be held by either a retiree, as defined in s. 185.02,  
293 or an active police officer of the plan who has been elected by  
294 the active police officers. A closed plan means a plan that is  
295 closed to new members but continues to operate, pursuant to s.  
296 185.38(2), for participants who elect to remain in the existing  
297 plan. This paragraph applies only to those plans that are closed  
298 to new members pursuant to s. 185.38(2) and does not apply to

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299 any other municipality that has a chapter plan or a local law  
300 plan.

301 (2) The trustees shall by majority vote elect from its  
302 members a chair and a secretary. The secretary of the board  
303 shall keep a complete minute book of the actions, proceedings,  
304 or hearings of the board. The trustees shall not receive any  
305 compensation as such, but may receive expenses and per diem as  
306 provided by Florida law.

307 (3) The board of trustees shall meet at least quarterly  
308 each year.

309 (4) Each board of trustees shall be a legal entity that  
310 shall have, in addition to other powers and responsibilities  
311 contained herein, the power to bring and defend lawsuits of  
312 every kind, nature, and description.

313 (5) In any judicial proceeding or administrative  
314 proceeding under chapter 120 brought under or pursuant to the  
315 provisions of this chapter, the prevailing party shall be  
316 entitled to recover the costs thereof, together with reasonable  
317 attorney's fees.

318 (6) The board of trustees may, upon written request by the  
319 retiree of the plan, or by a dependent, if authorized by the  
320 retiree or the retiree's beneficiary, authorize the plan  
321 administrator to withhold from the monthly retirement payment  
322 funds necessary to pay for the benefits being received through  
323 the governmental entity from which the employee retired, to pay  
324 the certified bargaining agent of the governmental entity, and

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325 to make any payments for child support or alimony. Upon the  
326 written request of the retiree of the plan, the board of  
327 trustees may also authorize the plan administrator to withhold  
328 from the retirement payment those funds necessary to pay for  
329 premiums for accident, health, and long-term care insurance for  
330 the retiree and the retiree's spouse and dependents. A  
331 retirement plan does not incur liability for participation in  
332 this permissive program if its actions are taken in good faith.

333 (7) The provisions of this section may not be altered by a  
334 participating municipality operating a chapter or local law plan  
335 under this chapter.

336 (8) The board of trustees shall establish qualifications  
337 for the plan administrator. At a minimum, the qualifications  
338 shall require that the individual have a bachelor's or higher  
339 degree from an accredited college or university and be approved  
340 by a majority plus one vote of the plan sponsor.

341 (9) The governing body of a municipality may terminate a  
342 plan administrator's pension or retirement plan if any provision  
343 of such pension or retirement plan is found unlawful by a court  
344 of competent jurisdiction.

345 (10) Notwithstanding s. 185.35(2) and (3), a local law  
346 plan created by special act before May 27, 1939, must comply  
347 with this section.

348 Section 4. Subsection (6) is added to section 185.35,  
349 Florida Statutes, to read:

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350 185.35 Municipalities having their own pension plans for  
351 police officers.—For any municipality, chapter plan, local law  
352 municipality, or local law plan under this chapter, in order for  
353 municipalities with their own pension plans for police officers,  
354 or for police officers and firefighters if included, to  
355 participate in the distribution of the tax fund established  
356 pursuant to s. 185.08, local law plans must meet the minimum  
357 benefits and minimum standards set forth in this chapter:

358 (6) (a) A municipality having its own pension plan that has  
359 an assets-to-liabilities ratio, using the most recent plan  
360 actuarial report, of 50 percent or less, shall, every 3 years,  
361 conduct an internal audit of the plan's management and  
362 accounting practices and investments. The audit shall be paid  
363 for by the board of trustees of the pension trust fund. The  
364 results of the audit shall be provided to the municipality and  
365 the Department of Management Services.

366 (b) Notwithstanding subsections (2) and (3), a local law  
367 plan created by special act before May 27, 1939, must comply  
368 with this subsection.

369 Section 5. The Legislature finds that a proper and  
370 legitimate state purpose is served when employees and retirees  
371 of the state and its political subdivisions, and the dependents,  
372 survivors, and beneficiaries of such employees and retirees, are  
373 extended the basic protections afforded by governmental  
374 retirement systems that provide fair and adequate benefits and  
375 that are managed, administered, and funded in an actuarially

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376 sound manner as required by s. 14, Article X of the State  
377 Constitution and part VII of chapter 112, Florida Statutes.  
378 Therefore, the Legislature determines and declares that this act  
379 fulfills an important state interest.

380 Section 6. This act shall take effect July 1, 2015.

381

382 -----

383

**T I T L E A M E N D M E N T**

384

Remove everything before the enacting clause and insert:

385

An act relating to retirement; amending ss. 175.061 and

386

185.05, F.S.; providing applicability; revising the

387

membership for the board of trustees of the firefighters'

388

pension trust fund and the municipal police officers'

389

retirement trust fund; providing duties of the board

390

relating to the establishment of requirements for the plan

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administrator; authorizing the governing body of a

392

municipality to terminate a plan administrator's pension or

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retirement plan under certain conditions; amending ss.

394

175.351 and 185.35, F.S., relating to municipalities and

395

special fire control districts that have their own pension

396

plans and want to participate in the distribution of a tax

397

fund; providing requirements for municipalities with plans

398

with an unfunded liability; providing applicability;

399

providing a declaration of important state interest;

400

providing an effective date.