

1                   A bill to be entitled  
2           An act relating to retirement; amending ss. 175.061  
3           and 185.05, F.S.; providing applicability; requiring  
4           the members of the board of trustees of the  
5           firefighters' pension trust fund and the municipal  
6           police officers' retirement trust fund to serve  
7           staggered terms; providing duties of the board  
8           relating to the establishment of requirements for the  
9           plan administrator; authorizing the governing body of  
10          a municipality to terminate a plan administrator's  
11          pension or retirement plan under certain conditions;  
12          amending ss. 175.351 and 185.35, F.S., relating to  
13          municipalities and special fire control districts that  
14          have their own pension plans and want to participate  
15          in the distribution of a tax fund; providing  
16          requirements for municipalities with plans with an  
17          unfunded liability; providing applicability; providing  
18          a declaration of important state interest; providing  
19          an effective date.

20  
21   Be It Enacted by the Legislature of the State of Florida:

22  
23           Section 1.   Section 175.061, Florida Statutes, is amended  
24   to read:

25           175.061   Board of trustees; members; terms of office;  
26   meetings; legal entity; costs; attorney's fees.—For any

27 | municipality, special fire control district, chapter plan, local  
28 | law municipality, local law special fire control district, ~~or~~  
29 | local law plan under this chapter, or local law plan created by  
30 | special act before May 23, 1939:

31 |       (1) In each municipality and in each special fire control  
32 | district there is hereby created a board of trustees of the  
33 | firefighters' pension trust fund, which shall be solely  
34 | responsible for administering the trust fund. Effective October  
35 | 1, 1986, and thereafter:

36 |       (a) The membership of the board of trustees for a chapter  
37 | plan, whose members shall serve staggered terms, consists of  
38 | five members, two of whom, unless otherwise prohibited by law,  
39 | must be legal residents of the municipality or special fire  
40 | control district and must be appointed by the governing body of  
41 | the municipality or special fire control district, and two of  
42 | whom must be full-time firefighters as defined in s. 175.032 who  
43 | are elected by a majority of the active firefighters who are  
44 | members of such plan. With respect to any chapter plan or local  
45 | law plan that, on January 1, 1997, allowed retired firefighters  
46 | to vote in such elections, retirees may continue to vote in such  
47 | elections. The fifth member shall be chosen by a majority of the  
48 | previous four members as provided herein, and such person's name  
49 | shall be submitted to the governing body of the municipality or  
50 | special fire control district. Upon receipt of the fifth  
51 | person's name, the governing body of the municipality or special  
52 | fire control district shall, as a ministerial duty, appoint such

53 person to the board of trustees. The fifth member shall have the  
54 same rights as each of the other four members, shall serve as  
55 trustee for a period of 2 years, and may succeed himself or  
56 herself in office. Each resident member shall serve as trustee  
57 for a period of 2 years, unless sooner replaced by the governing  
58 body at whose pleasure he or she serves, and may succeed himself  
59 or herself as a trustee. Each firefighter member shall serve as  
60 trustee for a period of 2 years, unless he or she sooner leaves  
61 the employment of the municipality or special fire control  
62 district as a firefighter, whereupon a successor shall be chosen  
63 in the same manner as an original appointment. Each firefighter  
64 may succeed himself or herself in office. The terms of office of  
65 the appointed and elected members may be amended by municipal  
66 ordinance, special act of the Legislature, or resolution adopted  
67 by the governing body of the special fire control district to  
68 extend the terms from 2 years to 4 years. The length of the  
69 terms of office shall be the same for all board members.

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

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

75 2. If a municipality has a pension plan for firefighters  
76 and police officers, the provisions of paragraph (a) apply,  
77 except that in a municipality with a population of 800,000 or  
78 more, the board of trustees shall consist of nine members, four

79 of whom shall be appointed by the governing body of the  
80 municipality, two of whom ~~one member of the board~~ must be  
81 firefighters ~~a firefighter~~ and two of whom ~~one member of the~~  
82 ~~board~~ must be a police officers ~~officer~~ as defined in s. 185.02,  
83 respectively elected by a majority of the active firefighters or  
84 police officers who are members of the plan.

85 3. A board of trustees operating a local law plan on July  
86 1, 1999, which is combined with a plan for general employees  
87 shall hold an election of the firefighters, or firefighters and  
88 police officers, if included, to determine whether a plan is to  
89 be established for firefighters only, or for firefighters and  
90 police officers where included. Based on the election results, a  
91 new board shall be established as provided in subparagraph 1. or  
92 subparagraph 2., as appropriate. The municipality or fire  
93 control district shall enact an ordinance or resolution to  
94 implement the new board by October 1, 1999. The newly  
95 established board shall take whatever action is necessary to  
96 determine the amount of assets attributable to firefighters, or  
97 firefighters and police officers where included. Such assets  
98 include all employer, employee, and state contributions made by  
99 or on behalf of firefighters, or firefighters and police  
100 officers where included, and any investment income derived from  
101 such contributions. All such moneys shall be transferred into  
102 the newly established retirement plan, as directed by the board.  
103  
104 With respect to a board of trustees operating a local law plan

105 on June 30, 1986, this paragraph does not permit the reduction  
106 of the membership percentage of firefighters, or of firefighters  
107 and police officers where a joint or mixed fund exists. However,  
108 for the sole purpose of changing municipal representation, a  
109 municipality may by ordinance change the municipal  
110 representation on the board of trustees operating a local law  
111 plan by ordinance, only if such change does not reduce the  
112 membership percentage of firefighters, or firefighters and  
113 police officers, or the membership percentage of the municipal  
114 representation.

115 (c) Whenever the active firefighter membership of a closed  
116 chapter plan or closed local law plan as provided in s. 175.371  
117 falls below 10, an active firefighter member seat may be held by  
118 either a retired member or an active firefighter member of the  
119 plan who is elected by the active and retired members of the  
120 plan. If there are no active or retired firefighters remaining  
121 in the plan or capable of serving, the remaining board members  
122 may elect an individual to serve in the active firefighter seat.  
123 Upon receipt of such person's name, the legislative body of the  
124 municipality or special fire control district shall, as a  
125 ministerial duty, appoint such person to the board of trustees.  
126 This paragraph applies only to those plans that are closed to  
127 new members under s. 175.371(2), and does not apply to any other  
128 municipality or fire control district having a chapter or local  
129 law plan.

130 (2) The trustees shall by a majority vote elect from their

131 number a chair and a secretary. The secretary of the board shall  
 132 keep a complete minute book of the actions, proceedings, or  
 133 hearings of the board. The trustees shall not receive any  
 134 compensation as such, but may receive expenses and per diem as  
 135 provided by Florida law.

136 (3) The board of trustees shall meet at least quarterly  
 137 each year.

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

142 (5) In any judicial proceeding or administrative  
 143 proceeding under chapter 120 brought under or pursuant to the  
 144 provisions of this chapter, the prevailing party shall be  
 145 entitled to recover the costs thereof, together with reasonable  
 146 attorney's fees.

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

150 (7) The board of trustees may, upon written request of the  
 151 retiree of the plan, or by a dependent, if authorized by the  
 152 retiree or the retiree's beneficiary, authorize the plan  
 153 administrator to withhold from the monthly retirement payment  
 154 funds that are necessary to pay for the benefits being received  
 155 through the governmental entity from which the employee retired,  
 156 to pay the certified bargaining agent of the governmental

157 entity, and to make any payments for child support or alimony.  
158 Upon the written request of the retiree of the plan, the board  
159 may also authorize the plan administrator to withhold from the  
160 retirement payment those funds necessary to pay for premiums for  
161 accident, health, and long-term care insurance for the retiree  
162 and the retiree's spouse and dependents. A retirement plan does  
163 not incur liability for participation in this permissive program  
164 if its actions are taken in good faith.

165 (8) The board of trustees shall establish qualifications  
166 for the plan administrator, and the plan administrator must be  
167 approved by a majority-plus-one vote of the plan sponsor.

168 (9) The governing body of a municipality may terminate a  
169 plan administrator's pension or retirement plan if any provision  
170 of such pension or retirement plan is found unlawful by a court  
171 of competent jurisdiction.

172 (10) Notwithstanding s. 175.351(2) and (3), a local law  
173 plan created by special act before May 23, 1939, must comply  
174 with this section.

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

177 175.351 Municipalities and special fire control districts  
178 having their own pension plans for firefighters.—For any  
179 municipality, special fire control district, local law  
180 municipality, local law special fire control district, or local  
181 law plan under this chapter, in order for municipalities and  
182 special fire control districts with their own pension plans for

183 firefighters, or for firefighters and police officers if  
 184 included, to participate in the distribution of the tax fund  
 185 established pursuant to s. 175.101, local law plans must meet  
 186 the minimum benefits and minimum standards set forth in this  
 187 chapter.

188 (6) (a) A municipality having its own pension plan that has  
 189 an assets-to-liabilities ratio, using the most recent plan  
 190 actuarial report, of 50 percent or less, shall, every 3 years,  
 191 conduct an internal audit of the plan's management and  
 192 accounting practices and investments. The audit shall be paid  
 193 for by the board of trustees of the pension trust fund. The  
 194 results of the audit shall be provided to the municipality and  
 195 the Department of Management Services.

196 (b) Notwithstanding subsections (2) and (3), a local law  
 197 plan created by special act before May 23, 1939, must comply  
 198 with this subsection.

199 Section 3. Section 185.05, Florida Statutes, is amended to  
 200 read:

201 185.05 Board of trustees; members; terms of office;  
 202 meetings; legal entity; costs; attorney's fees.—For any  
 203 municipality, chapter plan, local law municipality, ~~or~~ local law  
 204 plan under this chapter, or a local law plan created by special  
 205 act before May 23, 1939:

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

209 responsible for administering the trust fund. Effective October  
210 1, 1986, and thereafter:

211 (a) The membership of the board of trustees for chapter  
212 plans, whose members shall serve staggered terms, consists of  
213 five members, two of whom, unless otherwise prohibited by law,  
214 must be legal residents of the municipality and must be  
215 appointed by the legislative body of the municipality, and two  
216 of whom must be police officers as defined in s. 185.02 who are  
217 elected by a majority of the active police officers who are  
218 members of such plan. With respect to any chapter plan or local  
219 law plan that, on January 1, 1997, allowed retired police  
220 officers to vote in such elections, retirees may continue to  
221 vote in such elections. The fifth member shall be chosen by a  
222 majority of the previous four members, and such person's name  
223 shall be submitted to the legislative body of the municipality.  
224 Upon receipt of the fifth person's name, the legislative body  
225 shall, as a ministerial duty, appoint such person to the board  
226 of trustees. The fifth member shall have the same rights as each  
227 of the other four members appointed or elected, shall serve as  
228 trustee for a period of 2 years, and may succeed himself or  
229 herself in office. Each resident member shall serve as trustee  
230 for a period of 2 years, unless sooner replaced by the  
231 legislative body at whose pleasure the member serves, and may  
232 succeed himself or herself as a trustee. Each police officer  
233 member shall serve as trustee for a period of 2 years, unless he  
234 or she sooner leaves the employment of the municipality as a

235 | police officer, whereupon a successor shall be chosen in the  
236 | same manner as an original appointment. Each police officer may  
237 | succeed himself or herself in office. The terms of office of the  
238 | appointed and elected members of the board of trustees may be  
239 | amended by municipal ordinance or special act of the Legislature  
240 | to extend the terms from 2 years to 4 years. The length of the  
241 | terms of office shall be the same for all board members.

242 | (b) The membership of boards of trustees for local law  
243 | plans is as follows:

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

246 | 2. If a municipality has a pension plan for police  
247 | officers and firefighters, the provisions of paragraph (a)  
248 | apply, except that in a municipality with a population of  
249 | 800,000 or more, the board of trustees shall consist of nine  
250 | members, four of whom shall be appointed by the governing body  
251 | of the municipality, two of whom ~~one member of the board~~ shall  
252 | be police officers, a ~~police officer~~ and two of whom ~~one member~~  
253 | shall be firefighters a ~~firefighter~~ as defined in s. 175.032,  
254 | respectively, elected by a majority of the active firefighters  
255 | and police officers who are members of the plan.

256 | 3. Any board of trustees operating a local law plan on  
257 | July 1, 1999, which is combined with a plan for general  
258 | employees shall hold an election of the police officers, or  
259 | police officers and firefighters if included, to determine  
260 | whether a plan is to be established for police officers only, or

261 for police officers and firefighters where included. Based on  
262 the election results, a new board shall be established as  
263 provided in subparagraph 1. or subparagraph 2., as appropriate.  
264 The municipality shall enact an ordinance to implement the new  
265 board by October 1, 1999. The newly established board shall take  
266 whatever action is necessary to determine the amount of assets  
267 which is attributable to police officers, or police officers and  
268 firefighters where included. Such assets shall include all  
269 employer, employee, and state contributions made by or on behalf  
270 of police officers, or police officers and firefighters where  
271 included, and any investment income derived from such  
272 contributions. All such moneys shall be transferred into the  
273 newly established retirement plan, as directed by the board.

274

275 With respect to any board of trustees operating a local law plan  
276 on June 30, 1986, this paragraph does not permit the reduction  
277 of the membership percentage of police officers or police  
278 officers and firefighters. However, for the sole purpose of  
279 changing municipal representation, a municipality may by  
280 ordinance change the municipal representation on the board of  
281 trustees operating a local law plan by ordinance, only if such  
282 change does not reduce the membership percentage of police  
283 officers, or police officers and firefighters, or the membership  
284 percentage of the municipal representation.

285 (c) Whenever the active police officer membership of a  
286 closed chapter plan or closed local law plan as provided in s.

287 185.38 falls below 10, an active police officer member seat may  
288 be held by either a retired police officer or an active police  
289 officer member of the plan who is elected by the active and  
290 retired members of the plan. If there are no active or retired  
291 police officers remaining in the plan or capable of serving, the  
292 remaining board members may elect an individual to serve in the  
293 active police officer member seat. Upon receipt of such person's  
294 name, the legislative body of the municipality shall, as a  
295 ministerial duty, appoint such person to the board of trustees.  
296 This paragraph applies only to those plans that are closed to  
297 new members under s. 185.38(2), and does not apply to any other  
298 municipality having a chapter or local law plan.

299 (d) If the chapter plan or local law plan with an active  
300 membership of 10 or more is closed to new members, the member  
301 seats may be held by either a retiree, as defined in s. 185.02,  
302 or an active police officer of the plan who has been elected by  
303 the active police officers. A closed plan means a plan that is  
304 closed to new members but continues to operate, pursuant to s.  
305 185.38(2), for participants who elect to remain in the existing  
306 plan. This paragraph applies only to those plans that are closed  
307 to new members pursuant to s. 185.38(2) and does not apply to  
308 any other municipality that has a chapter plan or a local law  
309 plan.

310 (2) The trustees shall by majority vote elect from its  
311 members a chair and a secretary. The secretary of the board  
312 shall keep a complete minute book of the actions, proceedings,

313 or hearings of the board. The trustees shall not receive any  
314 compensation as such, but may receive expenses and per diem as  
315 provided by Florida law.

316 (3) The board of trustees shall meet at least quarterly  
317 each year.

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

322 (5) In any judicial proceeding or administrative  
323 proceeding under chapter 120 brought under or pursuant to the  
324 provisions of this chapter, the prevailing party shall be  
325 entitled to recover the costs thereof, together with reasonable  
326 attorney's fees.

327 (6) The board of trustees may, upon written request by the  
328 retiree of the plan, or by a dependent, if authorized by the  
329 retiree or the retiree's beneficiary, authorize the plan  
330 administrator to withhold from the monthly retirement payment  
331 funds necessary to pay for the benefits being received through  
332 the governmental entity from which the employee retired, to pay  
333 the certified bargaining agent of the governmental entity, and  
334 to make any payments for child support or alimony. Upon the  
335 written request of the retiree of the plan, the board of  
336 trustees may also authorize the plan administrator to withhold  
337 from the retirement payment those funds necessary to pay for  
338 premiums for accident, health, and long-term care insurance for

339 the retiree and the retiree's spouse and dependents. A  
340 retirement plan does not incur liability for participation in  
341 this permissive program if its actions are taken in good faith.

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

345 (8) The board of trustees shall establish qualifications  
346 for the plan administrator, and the plan administrator must be  
347 approved by a majority-plus-one vote of the plan sponsor.

348 (9) The governing body of a municipality may terminate a  
349 plan administrator's pension or retirement plan if any provision  
350 of such pension or retirement plan is found unlawful by a court  
351 of competent jurisdiction.

352 (10) Notwithstanding s. 185.35(2) and (3), a local law  
353 plan created by special act before May 23, 1939, must comply  
354 with this section.

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

357 185.35 Municipalities having their own pension plans for  
358 police officers.—For any municipality, chapter plan, local law  
359 municipality, or local law plan under this chapter, in order for  
360 municipalities with their own pension plans for police officers,  
361 or for police officers and firefighters if included, to  
362 participate in the distribution of the tax fund established  
363 pursuant to s. 185.08, local law plans must meet the minimum  
364 benefits and minimum standards set forth in this chapter:

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

373       (b) Notwithstanding subsections (2) and (3), a local law  
374 plan created by special act before May 23, 1939, must comply  
375 with this subsection.

376       Section 5. The Legislature finds that a proper and  
377 legitimate state purpose is served when employees and retirees  
378 of the state and its political subdivisions, and the dependents,  
379 survivors, and beneficiaries of such employees and retirees, are  
380 extended the basic protections afforded by governmental  
381 retirement systems that provide fair and adequate benefits and  
382 that are managed, administered, and funded in an actuarially  
383 sound manner as required by s. 14, Article X of the State  
384 Constitution and part VII of chapter 112, Florida Statutes.  
385 Therefore, the Legislature determines and declares that this act  
386 fulfills an important state interest.

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