

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 533 City of Tampa, Hillsborough County
SPONSOR(S): Cruz
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N	Renner	Miller
2) Oversight, Transparency & Administration Subcommittee	12 Y, 0 N	Harrington	Harrington
3) Government Accountability Committee	19 Y, 0 N	Renner	Williamson

SUMMARY ANALYSIS

The Firefighters and Police Pension Fund (Fund) for the City of Tampa was created by special act in 1933. In 2015, the Legislature required certain local pension plan sponsors to create a defined contribution component within their plans to fund special benefits.

The bill authorizes the City of Tampa to enter into a supplemental contract with every firefighter or police officer who is an active member of the Fund for the City of Tampa on or after the date this act becomes a law or who enters into a pension contract with the city. The bill provides for the establishment of a defined contribution plan component, which is not currently funded. If such plan component is funded, the bill authorizes the Board of Trustees to adopt rules implementing the defined contribution plan component. The changes to the pension contract in this act must be made available in a supplemental pension contract to every active firefighter and police officer. In addition, any person who becomes a member of the Fund on or after the date the bill becomes law must, as a condition of the membership into the Fund, to sign a pension contract which includes the provisions of this act, and must make contributions if required as a result of the benefits. The bill also provides that provisions of the bill are severable.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Protection of Public Employee Retirement Benefits Act

Part VII of chapter 112, F.S., the Florida Protection of Public Employee Retirement Benefits Act (act), was adopted by the Legislature to implement the provisions of s. 14, Art. X of the Florida Constitution. The act establishes minimum standards for operating and funding public employee retirement systems and plans. It is applicable to all units of state, county, special district, and municipal governments participating in, operating, or administering a retirement system for public employees, which is funded in whole or in part by public funds.¹ Responsibility for administration of the act has been assigned primarily to the Division of Retirement (division), Department of Management Services.

The Florida Constitution prohibits any increase in retirement or pension benefits for a publicly funded plan, unless the increase has made or concurrently makes provision for funding the increase on an actuarially sound basis.² Local governments are prohibited from agreeing to a proposed change in retirement benefits if the plan administrator did not issue a statement of actuarial impact of the proposed change before both the adoption of the change by the governing body of the local government and the last public hearing about the proposed change.³ This statement must also be furnished to the division before the local government can agree to the change.⁴ The statement must indicate whether the proposed change complies with s. 14, Art. X of the Florida Constitution and with s. 112.64, F.S. (concerning the administration of pension funds and the amortization of any unfunded actuarial liability).⁵

Municipal Firefighter and Police Pensions

Chapters 175 and 185, F.S., 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.⁶ 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 1993.⁷

¹ Section 112.62, F.S.

² Art. X, s. 14, Fla. Const.

³ Section 112.63(3), F.S.

⁴ *Id.*

⁵ *Id.*

⁶ See Department of Management Services, *Overview, Legislative History of Chapter 175/185 Program*, available at http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans/overview (last visited February 28, 2017).

⁷ *Id.*

Funding for these pension plans comes from four sources:⁸

- 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.

Chapter 2015-39, Laws of Florida, among other matters, required plan sponsors to create a defined contribution component within their plans to fund special benefits:⁹

- By October 1, 2015, for non-collectively bargained service;
- Upon entering into a collective bargaining agreement on or after July 1, 2015; or
- Upon the creation date of a new participating plan.

City of Tampa Firefighters and Police Pension Fund

The Firefighters and Police Pension Fund (Fund) for the City of Tampa originally was created through a special act in 1933¹⁰ and amended through subsequent acts. The provisions of these laws are incorporated into a pension contract and appropriate supplemental pension contracts, which are signed by each individual plan member.

The contract provides for pension plan administration, funding, membership and benefits. The general administration and responsibility for the proper operation of the pension system is vested in a board of trustees consisting of nine persons: three members of the city administration appointed by the mayor, three members of the fire department elected by active and retired firefighters, and three members of the police department elected by active and retired police officers.

Effect of Proposed Changes

Pursuant to the requirements of chapters 175 and 185, F.S., the bill authorizes the City of Tampa to enter into a supplemental contract with every firefighter or police officer who is an active member of the Fund on or after the date the bill becomes law or who enters into a pension contract with the City of Tampa.

The bill provides for the establishment of a defined contribution plan component, which is not currently funded. However, should the plan component become funded, the Board of Trustees is authorized to adopt rules regarding the operation of the defined contribution plan component.

The changes to the pension contract must be made available in a supplemental pension contract and an individual is not authorized to select some of said changes and reject other changes. Additionally, any actively employed firefighter or police officer who is entitled to benefits under the Fund will have the opportunity to sign a supplemental pension contract before October 1, 2017. However, any person who becomes a member of the Fund on or after the date the bill becomes law must, as a condition of membership into the Fund, to sign a pension contract which includes the provisions of this act, and must make contributions if required as a result of the benefits. Furthermore, the bill approves, ratifies, validates, and confirms the Fund.

Lastly, if the provisions of the act or its application are invalid, the invalidity will not affect other provisions or applications of the act which can be given effect without the invalid provision or application. Provisions of the act are severable.

⁸ Sections 175.091(1)(a)-(g) and 185.07(1)(a)-(g), F.S.

⁹ Sections 175.351(6) and 185.35(6), F.S.

¹⁰ See ch. 16721, Laws of Fla. (1933).

B. SECTION DIRECTORY:

- Section 1 Authorizes the City of Tampa to enter into a supplemental contract with certain firefighters and police officers.
- Section 2 Authorizes the Board of Trustees to adopt rules implementing the defined contribution plan component in the event it becomes funded.
- Section 3 Provides contract requirements.
- Section 4 Confirms the City of Tampa Firefighters and Police Officers Pension Contract.
- Section 5 Provides for severability.
- Section 6 Provides the bill is effective upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 23, 2016

WHERE? *Tampa Bay Times*, a daily newspaper in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

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:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.