HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	HB 889	**FINAL HOUSE FLOOR ACTION:**	
SUBJECT/SHORT TITLE	West Palm Beach Police Pension Fund of the City of West Palm Beach, Palm Beach County	112 **Y's**	0 **N's**
SPONSOR(S):	Willhite	**GOVERNOR'S ACTION:**	Approved
COMPANION BILLS:	N/A		

SUMMARY ANALYSIS

HB 889 passed the House on March 1, 2018, and subsequently passed the Senate on March 8, 2018.

The West Palm Beach Police Pension Fund (Fund) was established by the Legislature in 1947. Each police officer employed by West Palm Beach is a Fund participant. According to the most recent data from the Department of Management Services, the fund has 241 active members, 214 retired members, and 36 members in the Deferred Retirement Option Plan (DROP). As of December 30, 2015, the Fund had $263,834,220 in total assets and $56,666,324 in unfunded actuarial accrued liability.

The bill modifies the special act creating the Fund to revise the methodology for calculating the monthly pension benefit amount for Fund participants for all years of service earned after October 1, 2017. The bill also makes two clarifying changes concerning the effective date of a previous change to the special act and a reference to DROP account balances for deceased fund members.

The bill implements an agreement reached by the City of West Palm Beach and the union representing the city's police officers.

The bill was approved by the Governor on March 23, 2018, ch. 2018-168, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Police Pensions: Marvin B. Clayton Police Officers Pension Trust Fund Act

Local police pension plans are governed by ch. 185, F.S., the Marvin B. Clayton Police Officers Pension Trust Fund Act (Clayton Police Pension Act).[1] Originally enacted in 1939, the Clayton Police Pension Act encouraged cities to create police pension plans by providing access to premium tax revenues. The Clayton Police Pension Act sets forth minimum benefits and standards for municipal police pensions, which cannot be reduced by municipalities; however, the benefits provided by a local plan may vary from the provisions in the Clayton Police Pension Act so long as the minimum standards are met.

Local police pension plans created pursuant to the Clayton Police Pension Act are funded by four sources:

- Net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the premium tax);[2]
- Employee contributions;[3]
- Other revenue sources;[4] and
- Mandatory payments by the city of the normal cost of the plan.[5]

The premium tax is an excise tax of 0.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality.[6] It 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). In 2016, premium tax distributions to municipalities from the Police Officers' Pension Trust Fund amounted to $75.9 million.[7]

To qualify for insurance premium tax dollars, plans must meet the requirements found in ch. 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.[8] The board of trustees must invest and reinvest the assets of the fund according to s. 185.06, F.S., unless specifically authorized to vary from the law. If the Division determines that a police pension plan created pursuant to ch. 185, F.S., is not in compliance, the sponsoring municipality could be denied its insurance premium tax revenues.[9]

The default employee contribution under the Clayton Police Pension Act is 5 percent of salary, but the percentage may be adjusted.[10] A municipality may elect to make an employee's contributions, but the employee must still contribute at least 0.5 percent of his or her salary.[11] Rates may also be increased

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[1] Section 185.015, F.S.
[2] Section 185.07(1)(a), F.S.
[3] Section 185.07(1)(b), F.S.
[4] Section 185.07(1)(c), (e)-(g), F.S.
[5] Section 185.07(1)(d), F.S.
[6] Section 185.08, F.S.
[7] Department of Management Services, *Municipal Police and Fire Plans*, available at: http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans (last accessed Dec. 12, 2017).
[8] *See* s. 185.06, F.S.
[9] Section 185.23(1), F.S.
[10] Section 185.07(1)(b), F.S.
[11] Section 185.07(2)(a), F.S.

above 5 percent, subject to the consent of the members' collective bargaining representative or, if none, by a majority consent of the police officer members of the fund.[12]

Florida Protection of Public Employee Retirement Benefits Act

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.[13] The Florida Protection of Public Employee Retirement Benefits Act (Benefits Act), Part VII of ch. 112, F.S., implements the provisions of Art. X, s. 14, Florida Constitution.[14] The Benefits Act applies to all retirement or pension plans for public employees that are funded in whole or in part by public funds.[15]

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.[16] This statement must also be furnished to the Division before the local government can agree to the change.[17] The statement must indicate whether the proposed change complies with Art. X, s. 14, Florida Constitution, and with s. 112.64, F.S. (concerning the administration of pension funds and the amortization of any unfunded actuarial liability).[18]

West Palm Beach Police Pension Fund

The West Palm Beach Police Pension Fund (Fund or Plan) was established by the Legislature in 1947.[19] The act governing the Fund was most recently amended in 2012.[20] As of September 30, 2016, the Fund had 241 active members, 214 retired members, and 36 members in the Deferred Retirement Option Plan (DROP).[21] As of December 30, 2015, the Fund had $263,834,220 in total assets and $56,666,324 in unfunded actuarial accrued liability.[22] Normal retirement age is 55 years of age for those with at least 10 years of service, 50 years of age for those with at least 20 years of service, and any age for those with at least 25 years of service.[23]

The Fund currently assumes 8 percent annual growth of its assets.[24] During the 2014-15 fiscal year, the Fund saw a 10.40 percent growth in the actuarial value of its assets and a 2.10 percent decline in the market value of its assets.

[12] Section 185.07(2)(b), F.S.
[13] Article X, s. 14, Fla. Const.
[14] Section 112.61, F.S.
[15] Section 112.62, F.S.
[16] Section 112.63(3), F.S.
[17] *Id*.
[18] *Id*.
[19] Chapter 47-24981, Laws of Fla.
[20] Chapter 2012-259, Laws of Fla.
[21] Department of Management Services, *Florida Local Government Retirement Systems 2016 Annual Report*, p. 16 of Appendix F, available at: http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/local_retirement_section/local_government_annual_reports (last accessed Dec. 12, 2017) (herein DMS Local Government Reports).
[22] DMS Local Government Reports, p. 19 of Appendix A.
[23] DMS Local Government Reports, p. 67 of Appendix B1.
[24] DMS Local Government Reports, p. 21 of Appendix E.

Retirement Pension Calculation

Retirement benefits under the Plan are calculated using several methods based on both the member's years of service and dates of employment.[25] A member's benefit under the Plan must be at least 2 percent of final average salary for each year of service.

Credit for service earned before October 1, 2011, is calculated as follows:

- For members with at least 12 years and 6 months of service as of October 1, 1999, and who were actively employed by the department on or after October 1, 1999, 3 percent of final average salary multiplied by years of service[26] earned between April 1, 1987, and September 30, 2011, plus 2.5 percent of the final average salary multiplied by years of service earned prior to April 1, 1987, up to a total of 26 years, plus 1 percent of the final average salary multiplied by the number of years in excess of 26 years.
- For members who had less than 12 years and 6 months of service and were actively employed by the department on or after October 1, 1999, 3 percent of final average salary multiplied by years of service, earned up to September 30, 2011, plus 1 percent of the final average salary multiplied by the number of years in excess of 26 years.
- For members who terminated employment, retired on a vested deferred benefit, or retired on or before October 1, 1999, the greater of:
  - 2.5 percent of final average salary multiplied by years of service, up to a total of 26 years, plus 1 percent of final average salary multiplied by the number of years in excess of 26 years.
  - The sum of 2.5 percent of final average salary multiplied by years of service for credited service earned through September 30, 1988, and 2 percent of the final average salary multiplied by years of service earned on or after October 1, 1988.

For service after October 1, 2011, retirement benefits are calculated using 2.68 percent of the member's final average salary per year and fractional parts of the years of service up to a total of 26 years, plus 1 percent of the final average salary multiplied by the number of years of service in excess of 26 years.

Effect of the Bill

The bill revises the formula for service earned after October 1, 2017. The pension benefit for all years of service earned after October 1, 2017, is calculated using 3 percent of the final average salary per year and fractional parts of a year up to a total of 26 years, plus 1 percent of the final average salary for the number of years or fractions of years in excess of 26 years of credited service. Years of service occurring between October 1, 2011, and October 1, 2017, are calculated using 2.68 percent of the Plan member's final average salary per year and are included in the 26-year limitation.

The bill also provides that in no event may the benefit be less than 2.75 percent per year of credited service, rather than 2 percent.

The bill also makes two clarifying changes. First, the bill inserts the effective date of a 2017 special act amending the plan to reflect when the provision took effect. Second, the bill clarifies a reference to DROP account balances for deceased Fund members.

[25] Chapter 47-24981, s. 16(9)(a), Laws of Fla., as amended.

[26] Unless otherwise noted, the term "years of service" for the purpose of this section includes fractional years of service.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. ECONOMIC IMPACT STATEMENT FILED? Yes [x] No []

D. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? November 1, 2017

WHERE? *The Palm Beach Post*, a daily newspaper of general circulation published in Palm Beach County, Florida.

E. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?: