

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1331 Fire Control Districts and Firefighter Pensions

SPONSOR(S): Roach

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	15 Y, 0 N	Smith	Smith
2) Ways & Means Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Marvin B. Clayton Firefighters' Pension Trust Fund Act (Act) provides a uniform retirement system for the benefit of municipal firefighters. Participation in the trust fund is limited to incorporated municipalities and to special fire control districts. An incentive for establishing firefighter retirement plans through the Act is access to premium tax revenues imposed on the gross premiums of property insurance covering property within the boundaries of the municipality or special fire control district. Currently, unincorporated areas of a county may not participate in the fund unless a special fire control district includes the unincorporated area.

A county has the authority to establish Municipal Services Taxing Units (MSTUs) for any part or all of the unincorporated area of a county. The creation of an MSTU allows the county's governing body to place the burden of ad valorem taxes upon property in a geographic area less than countywide to fund a particular municipal-type service or services.

The bill expands the applicability of the Act to allow a municipality that provides fire protection services to a MSTU through an interlocal agreement to receive insurance premium taxes collected within the MSTU boundary, for the purpose of providing pension benefits to the municipality's firefighters.

The Revenue Estimating Conference, on January 30, 2020, estimated that the bill would have a state General Revenue impact of -\$0.5 million annually and a local government revenue impact of \$0.5 million annually beginning in fiscal year 2020-2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Municipal Firefighters' Pension Trust Fund

Local firefighter pension plans are governed by Chapter 175, F.S., which is known as the Marvin B. Clayton Firefighters' Pension Trust Fund Act (Act). The Act declares a legitimate state purpose to provide a uniform retirement system for the benefit of firefighters.¹ All municipal and special district firefighter retirement trust fund systems and plans must be managed, administered, operated, and funded to maximize the protection of firefighters' pension trust funds.²

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive – access to premium tax revenues - to encourage cities to establish firefighter retirement plans. Special fire control districts became eligible to participate in 1993.

Participation in the trust fund is limited to incorporated municipalities and to special fire control districts. Single consolidated governments of a county and one or more municipalities are also allowed to participate in the trust fund. Currently, unincorporated areas of a county may not participate unless a special fire control district includes the unincorporated areas.

Pension Funding Sources

Four sources provide funding for these pension plans: net proceeds from an excise tax levied by a city upon property and casualty insurances companies (known as the “premium tax”); employee contributions; other revenue sources; and mandatory payments by the city of the normal cost of the plan.³ To qualify for insurance premium tax dollars, plans must meet requirements found in Chapter 175, F.S.

The premium tax is an excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or special fire control district.⁴ The insurers pay the tax to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the Division of Retirement (division) in the Department of Management Services (DMS). In 2018, premium tax distributions to municipalities and special fire control districts from the Firefighters' Pension Trust Fund amounted to \$77.1 million.⁵

A municipality that has entered into a one-year or longer interlocal agreement to provide fire services to another incorporated municipality may receive its premium taxes.⁶ The municipality providing fire services must notify the division of the interlocal agreement. The division may then distribute any premium taxes reported for the other incorporated municipality to the municipality providing the fire services.

Counties Furnishing Municipal Services

General law implements the constitutional provision authorizing a county furnishing municipal services to levy additional taxes within the limits fixed for municipal purposes via the establishment of Municipal Services Taxing Units (MSTU).⁷ The creation of a MSTU allows the county's governing body to place the burden of ad valorem taxes upon property in a geographic area less than countywide to fund a

¹ Section 175.021(1), F.S.

² *Id.*

³ Section 175.091(1), F.S.

⁴ Section 175.101(1), F.S.

⁵ Department of Management Services, *Municipal Police and Fire Plans*, available at

https://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans (last visited 2/2/20).

⁶ Although, the criteria in s. 175.041(3)(c), F.S., must be met.

⁷ Section 125.01(1)(q), F.S.

particular municipal-type service or services. The MSTU is used in a county budget to separate those ad valorem taxes levied within the taxing unit itself to ensure that the funds derived from the tax levy are used within the boundaries of the taxing unit for the contemplated services. If ad valorem taxes are levied to provide these municipal services, counties are authorized to levy up to ten mills.⁸

The MSTU may encompass the entire unincorporated area, a portion of the unincorporated area, or all or part of the boundaries of a municipality. However, the inclusion of municipal boundaries within the MSTU is subject to the consent by ordinance of the governing body of the affected municipality given either annually or for a term of years.⁹

Effect of Proposed Changes

The bill expands the applicability of the Firefighters' Pension Trust Fund to allow a municipality that provides fire protection services to a MSTU through an interlocal agreement to receive insurance premium taxes collected within the MSTU boundary, for the purpose of providing pension benefits to the municipality's firefighters.

The bill also permits the MSTU to revoke its participation; which would terminate eligibility for premium tax distributions.

The bill provides an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1: Amends s. 175.032, F.S., conforming provisions to changes made by the act.

Section 2: Amends s. 175.041, F.S., revising applicability of the Firefighters' Pension Trust Fund; authorizing a municipality that provides fire protection services to a MSTU under an interlocal agreement to receive property insurance premium taxes; authorizing a county to enact an ordinance levying a tax on behalf of a MSTU receiving fire protection services.

Section 3: Amends s. 175.071, F.S., conforming to provisions made by the act.

Section 4: Amends s. 175.101, F.S., authorizing a MSTU that enters into an interlocal agreement for fire protection services with a municipality to impose an excise tax on property insurance premiums.

Section 5: Amends s. 175.111, F.S., requiring a MSTU to provide the Division of Retirement of the Department of Management Services with a certified copy of an ordinance assessing and imposing certain taxes.

Sections 6, 7, and 8: Amends ss. 175.121, 175.122, and 175.351, F.S., revising provisions relating to the disbursement of moneys by the division and the Department of Revenue and the limitation of disbursement to conform to changes made by the act.

Section 9: Amends s. 175.381, F.S., conforming provisions to changes made by the act.

Section 10: Amends s. 175.411, F.S., authorizing a MSTU to revoke its participation and cease to receive property insurance premium taxes under certain conditions.

Section 11: Amends s. 191.006, F.S., requiring an independent special fire district to have, and authorizing the board of such district to exercise by majority vote, specified powers.

Section 12: Amends s. 633.422, F.S., conforming provisions to changes made by the act.

Section 13: Provides an effective date of July 1, 2020.

⁸ Section 200.071(3), F.S.

⁹ Office of Economic and Demographic Research, *Local Government Financial Information Handbook* (2019).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference, on January 30, 2020, estimated that the bill would have a state General Revenue impact of -\$0.5 million annually beginning in fiscal year 2020-2021.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference, on January 30, 2020, estimated that the bill would have a local government revenue impact of \$0.5 million annually beginning in fiscal year 2020-2021.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill specifies that a municipality is entitled to premium tax distributions provided by chapter 175, F.S., for providing fire services to MSTUs. As a result, this bill will have a fiscal impact on state revenues because state premium taxes paid by an insurer to fund a municipal firefighter retirement plan are credited against the premium taxes paid to the state by the insurance company.¹⁰

The bill will result in a positive fiscal impact on local governments because the bill provides that a municipality may collect premium tax revenues within the MSTU boundary receiving firefighter services if the consolidated government provides a municipal firefighter retirement plan, as provided for in chapter 175, F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

¹⁰ Section 624.509(4), F.S.
STORAGE NAME: h1331a.OTM
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None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.