HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1189 Publicly Funded Retirement Programs
SPONSOR(S): Eagle
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1442

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Harrington	Williamson
2) Finance & Tax Subcommittee			
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. All municipal firefighter retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of firefighter pension trust funds. The act provides an incentive – access to premium tax revenues – to encourage the establishment of firefighter retirement plans by cities. The act only applies to municipalities organized and established by law, and it does not apply to unincorporated areas of any county or counties.

The bill expands the applicability of the act. It provides that the act applies to municipalities providing fire protection services to a Municipal Service Taxing Unit (MSTU) through an interlocal agreement and authorizes the receipt of premium taxes collected within the MSTU boundary, for the purpose of providing pension benefits to the firefighters.

The bill may have an indeterminate negative fiscal impact on state government and an indeterminate positive fiscal impact on local government revenues. *See* Fiscal Comments for further discussion.

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. The act declares a legitimate state purpose to provide a uniform retirement system for the benefit of firefighters. All municipal and special district firefighter retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of firefighters' pension trust funds.[1]

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive – access to premium tax revenues – to encourage the establishment of firefighter pension plans by cities. Special fire control districts became eligible to participate under chapter 175, F.S., in 1993.

The act sets forth the minimum benefits or minimum standards for pensions for municipal firefighters. The benefits provided in the act may not be reduced by municipalities; however, the benefits provided in a local plan may vary from the provisions in that act so long as the minimum standards are met.

Funding for these pension plans comes from four sources:

- 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 the normal cost of the plan.

The Firefighters' Pension Trust Fund is funded through 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.[2] 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 2012, premium tax distributions to municipalities and special fire control districts from the Firefighters' Pension Trust Fund amounted to $72.4 million.[3]

To qualify for insurance premium tax dollars, plans must meet requirements found in chapter 175, 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. The board of trustees must invest and reinvest the assets of the fund according to s. 175.071, F.S., unless specifically authorized to vary from the law. If the division deems that a firefighter pension plan created pursuant to chapter 175, F.S., is not in compliance, the sponsoring municipality could be denied its insurance premium tax revenues.

Counties Furnishing Municipal Services
The legislative and governing body of a county has the power to carry on county government. This power includes the power to establish Municipal Services Taxing Units (MSTUs) for any part or all of the unincorporated area of a county.[4] 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 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

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[1] *See* s. 175.021(1), F.S.
[2] Section 175.101, F.S.
[3] A copy of the 2012 Premium Tax Distribution report is available online at: http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans (last visited March 19, 2014).
[4] Section 125.01(1)(q), F.S.

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 10 mills.[5]

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.[6]

Effect of Proposed Changes

The bill expands the applicability of the act. It provides that the act applies to municipalities providing fire protection services to a Municipal Service Taxing Unit (MSTU) through an interlocal agreement and authorizes the receipt of premium taxes collected within the MSTU boundary, for the purpose of providing pension benefits to the firefighters. It conforms chapter 175, F.S., to authorize MSTUs to receive premium tax distributions and to provide for firefighter pension benefits.

The bill requires municipalities to provide the division with a certified copy of the ordinance assessing and imposing the premium tax.

The bill also permits the MSTU to revoke its participation; such revocation terminates eligibility for premium tax distributions provided for in chapter 175, F.S.

B. SECTION DIRECTORY:

Section 1. amends s. 175.041, F.S.; revising applicability of the Marvin B. Clayton Firefighters Pension Trust Fund Act; providing that any MSTU that provides fire protection to another municipality under an interlocal agreement is eligible to receive property insurance premium tax.

Section 2. amends s. 175.101, F.S.; authorizing a MSTU that enters into an interlocal agreement for fire protection services with another municipality to impose an excise tax on property insurance premiums.

Section 3. amends s. 175.111, F.S.; requiring MSTUs to provide the division with a certified copy of the ordinance assessing and imposing certain taxes.

Sections 4 and 5.amend ss. 175.122 and 175.351, F.S.; revising provisions relating to the limitation of disbursement to conform to changes made by the act.

Section 6. amends s. 175.411, F.S.; authorizing a MSTU, under certain conditions, to revoke its participation and cease to receive property insurance premium taxes.

Section 7. provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

[5] Section 200.071(3), F.S.
[6] *Supra* at FN 4.

1. Revenues:

   See Fiscal Comments.

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., by providing fire services to MSTUs. As a result, this bill may 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.[7] The fiscal impact is indeterminate, but likely minimal.

The bill may result in a positive fiscal impact on local governments because the bill provides that a municipality may collect premium tax revenues collected by the municipality 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 revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues
The title of the bill may need to be changed to reflect that the MSTU is the entity that will receive the fire protection services, and the municipality is the entity that will receive the premium taxes. In addition, the language in the bill may need to be clarified to reflect that MSTUs will not be providing pension benefits.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

[7] Section 624.509(4), F.S.