



Government Operations Subcommittee

**Monday, April 1, 2013
3:00 PM
Webster Hall (212 Knott)**

MEETING PACKET

**Will Weatherford
Speaker**

**Jason T. Brodeur
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Government Operations Subcommittee

Start Date and Time: Monday, April 01, 2013 03:00 pm
End Date and Time: Monday, April 01, 2013 06:00 pm
Location: Webster Hall (212 Knott)
Duration: 3.00 hrs

Consideration of the following bill(s):

CS/HB 637 Public Records & Public Meetings/Postsecondary Education Executive Search by Higher Education & Workforce Subcommittee, Tobia

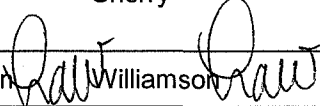
CS/HB 1085 Public Records/Natural Gas Storage Facility Permit by Agriculture & Natural Resources Subcommittee, Eagle

HB 1399 Firefighter and Police Officer Pension Plans by Rooney

NOTICE FINALIZED on 03/28/2013 16:21 by Sims-Davis.Linda

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 637 Pub. Rec./Postsecondary Education Executive Search Committees
SPONSOR(S): Higher Education and Workforce Subcommittee; Tobia
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	13 Y, 0 N, As CS	Brink	Sherry
2) Government Operations Subcommittee		Williamson	 Williamson
3) Education Committee			

SUMMARY ANALYSIS

When filling a vacant president or provost position, state universities and Florida College System (FCS) institutions tend to establish a search committee for the purpose of locating qualified applicants who are interested in filling the vacant position at the university or institution, vetting applicants, and selecting a candidate to fill the position. Information obtained by a search committee, including applications and other information gathered by the committee regarding applicants, must be made available for copying and inspection upon request. In addition, any meetings associated with the search process, including vetting of applicants, are open to the public.

The bill creates an exemption from public record and public meeting requirements for information associated with the applicant recruitment process, in addition to discussions associated with the applicant search. Specifically, the bill provides that any personal identifying information, or any document containing personal identifying information, of an applicant for president, provost, or dean of any state university or FSC institution is confidential and exempt from public record requirements. It also creates a public meeting exemption for any meeting held for the purpose of identifying or vetting applicants for president, provost, or dean of any state university or FCS institution.

The bill provides instances when the public meeting exemption does not apply. In addition, it provides that the names of any applicants who comprise a final group of applicants must be released by the state university or FCS institution no later than 10 days before the date of the meeting at which final action or vote is to be taken on the employment of the applicants. All documents containing personal identifying information of any applicants who comprise a final group of applicants become subject to public record requirements at the time the applicants' names are released.

The bill provides for repeal of the exemptions on October 2, 2018, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

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

The bill provides an effective date of October 1, 2013.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a public record and public meeting exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.¹ The board or commission must provide reasonable notice of all public meetings.² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.³ Minutes of a public meeting must be promptly recorded and open to public inspection.⁴

Public Record and Public Meeting Exemptions

The Legislature, however, may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.⁵

Furthermore, the Open Government Sunset Review Act⁶ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or

¹ Section 286.011(1), F.S.

² *Id.*

³ Section 286.011(6), F.S.

⁴ Section 286.011(2), F.S.

⁵ Art. I, s. 24(c), Fla. Const.

⁶ Section 119.15, F.S.

- Protects trade or business secrets.

Search Committees

Often, when looking to fill a vacant president or provost position, state universities and Florida College System (FCS) institutions⁷ establish a search committee, which may be comprised of members from an institution's board of trustees, faculty or student representatives, members of the community, a member from the Board of Governors or State Board of Education, and other potentially interested persons. The purpose of the committee is to locate qualified applicants who are interested in filling the vacant position at the university or institution, vetting applicants, and selecting a candidate to fill the position.⁸

The search committee often retains the services of a consulting firm for the purpose of conducting the search for a president or provost. It is typical for the consultant to make the initial contact with a potential applicant to determine if the person is interested in applying to fill the vacancy at the state university or FCS institution.

Information obtained by a search committee or consultant, including applications and other information gathered by a committee or consultant regarding applicants, must be made available for copying and inspection upon request. In addition, any meetings associated with the search process, including vetting of applicants, are open to the public.⁹

Effect of Proposed Changes

The bill creates an exemption from public record requirements for information associated with the applicant recruitment process, in addition to an exemption from public meeting requirements for discussions associated with the applicant search.

Specifically, the bill provides that any personal identifying information, or any document containing personal identifying information, of an applicant for president, provost, or dean of any state university or FCS institution is confidential and exempt¹⁰ from public record requirements. The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2018, unless reviewed and saved from repeal by the Legislature.

The bill also creates a public meeting exemption for any meeting held for the purpose of identifying or vetting applicants for president, provost, or dean of any state university or FCS institution. It provides that the public meeting exemption does not apply to a meeting held for the purpose of establishing qualifications of potential applicants or any compensation framework to be offered to potential applicants; however, any portion of such meeting that would disclose personal identifying information of an applicant or potential applicant is exempt from public meeting requirements. The bill provides that the public meeting exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2018, unless reviewed and saved from repeal by the Legislature.

⁷ The Board of trustees for a FCS institution is charged with appointing an institution president and may appoint a search committee for this purpose. Section 1001.64(19), F.S.

⁸ The Board of Governors must confirm the selected candidate for president of a state university Section 1001.706(6)(a), F.S.

⁹ FCS institutions and state universities are considered state agencies, subject to public records and public meetings laws. *See Wood v. Marston*, 442 So. 2d 934, 938 (Fla. 1983) (holding that a University of Florida screening committee was subject to Florida's Sunshine Law); *Rhea v. District Bd. Of Trustees of Santa Fe College*, 2013 WL 950544 at 3, n. 1 (Fla. 1st DCA 2013) (noting that Santa Fe College, as part of the Florida College System, is a state agency having a duty to provide access to public records).

¹⁰ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. *See* Attorney General Opinion 85-62 (August 1, 1985).

Any meeting or interview held after a final group of applicants has been established and held for the purpose of making a final selection to fill the position of president, provost, or dean is subject to public meeting requirements. In addition, the names of any applicants who comprise a final group of applicants must be released by the state university or FCS institution no later than 10 days before the date of the meeting at which final action or vote is to be taken on the employment of the applicants. All documents containing personal identifying information of any applicants who comprise a final group of applicants become subject to public record requirements at the time the applicants' names are released.

The bill provides a statement of public necessity as required by the State Constitution.

B. SECTION DIRECTORY:

Section 1 creates s. 1004.097, F.S., to provide public record and public meeting exemptions associated with a search conducted by a state university or FCS institution for the purpose of identifying or vetting applicants for president, provost, or dean.

Section 2 provides a statement of public necessity as required by the State Constitution.

Section 3 provides an effective date of October 1, 2013.

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. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill likely could create a minimal fiscal impact on state universities and FCS institutions, because staff responsible for complying with public record requests could require training related to creation of the public record exemption. In addition, state universities and FCS institutions could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the universities and institutions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for personal identifying information, or any document containing personal identifying information, of an applicant for president, provost, or dean of any state university or FCS institution. As such, it is unclear whether only the personal identifying information is protected from public disclosure or if the entire document containing such information is confidential and exempt. If it is the latter, then the exemption could be construed as overly broad if it is possible to conceal the identity of such applicant and still release the requested record.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments: Retroactive Application

The bill does not state that the expanded public record exemptions apply retroactively. The Supreme Court of Florida ruled that a public record exemption is not to be applied retroactively unless the legislation clearly expresses intent that such exemption is to be applied as such.¹¹

Other Comments: Open Government Sunset Review Act

The bill provides that the public record and public meeting exemptions are subject to the Open Government Sunset Review Act (act) and will repeal on October 2, 2018, unless reenacted and saved from repeal by the Legislature. It does not provide that the entire section is subject to the act, which could result in provisions of the bill remaining in current law if the Legislature does not save the exemptions from repeal in the future.

Other Comments: Personal Identifying Information

The bill provides a public record exemption for personal identifying information, or any document containing personal identifying information, of an applicant for president, provost, or dean of any state university or FCS institution. As such, it is unclear whether only the personal identifying information is protected from public disclosure or if the entire document containing such information is confidential and exempt.

¹¹ *Memorial Hospital-West Volusia, Inc. v. News-Journal Corporation*, 729 So.2d 373 (Fla. 2001).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Tuesday, March 19, 2013, a strike-all amendment was offered by the bill sponsor and adopted by the committee. The strike-all amendment makes the following changes to the bill:

- Exempts from public record laws all personal identifying information of applicants for the positions of president, provost, or dean with a state university or FCS institution.
- Provides that meetings for the purpose of identifying or vetting such applicants be exempt from public meeting laws.
- Provides that meetings for the purpose of establishing qualifications or compensation frameworks be subject to public meetings laws.
- Provides that meetings and interviews held after a final group of applicants has been established for the purpose of making a final selection are subject to public meeting laws.
- Requires state universities and FCS institutions to release the names of applicants to be considered in the final round of interviews no later than 10 days before the date of the meeting at which final action or vote is to be taken on the employment of the applicants.
- Provides that all documents containing personal identifying information of any applicants within the final group become subject to public records laws at the time the applicants' names are released.

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A bill to be entitled
 An act relating to public records and public meetings;
 creating s. 1004.097, F.S.; providing an exemption
 from public records requirements for any personal
 identifying information, or any document containing
 personal identifying information, of an applicant for
 president, provost, or dean of any state university or
 Florida College System institution; providing an
 exemption from public meeting requirements for any
 meeting held for the purpose of identifying or vetting
 applicants for president, provost, or dean of any
 state university or Florida College System institution
 and for any portion of a meeting held for the purpose
 of establishing qualifications of, or any compensation
 framework to be offered to, such potential applicants
 that would disclose personal identifying information
 of an applicant or potential applicant; providing
 applicability; requiring release of the names of
 specified applicants within a certain timeframe;
 providing for future legislative review and repeal of
 the exemptions; providing a statement of public
 necessity; providing an effective date.

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

Section 1. Section 1004.097, Florida Statutes, is created
 to read:

28 1004.097 Information identifying applicants for president,
 29 provost, or dean at state universities and Florida College
 30 System institutions; public records exemption; public meeting
 31 exemption.

32 (1) Any personal identifying information, or any document
 33 containing personal identifying information, of an applicant for
 34 president, provost, or dean of any state university or Florida
 35 College System institution is confidential and exempt from s.
 36 119.07(1) and s. 24(a), Art. I of the State Constitution. This
 37 subsection is subject to the Open Government Sunset Review Act
 38 in accordance with s. 119.15 and shall stand repealed on October
 39 2, 2018, unless reviewed and saved from repeal through
 40 reenactment by the Legislature.

41 (2) Any meeting held for the purpose of identifying or
 42 vetting applicants for president, provost, or dean of any state
 43 university or Florida College System institution is exempt from
 44 s. 286.011 and s. 24(b), Art. I of the State Constitution. This
 45 exemption does not apply to a meeting held for the purpose of
 46 establishing qualifications of potential applicants or any
 47 compensation framework to be offered to potential applicants.
 48 However, any portion of such a meeting that would disclose
 49 personal identifying information of an applicant or potential
 50 applicant is exempt from s. 286.011 and s. 24(b), Art. I of the
 51 State Constitution. This subsection is subject to the Open
 52 Government Sunset Review Act in accordance with s. 119.15 and
 53 shall stand repealed on October 2, 2018, unless reviewed and
 54 saved from repeal through reenactment by the Legislature.

55 (3) Any meetings or interviews, held after a final group
 56 of applicants has been established and held for the purpose of
 57 making a final selection to fill the position of president,
 58 provost, or dean of any state university or Florida College
 59 System institution, are subject to the provisions of s. 286.011
 60 and s. 24(b), Art. I of the State Constitution.

61 (4) The names of any applicants who comprise a final group
 62 of applicants pursuant to subsection (3) must be released by the
 63 state university or Florida College System institution no later
 64 than 10 days before the date of the meeting at which final
 65 action or vote is to be taken on the employment of the
 66 applicants.

67 (5) All documents containing the personal identifying
 68 information of any applicants who comprise a final group of
 69 applicants pursuant to subsection (3) become subject to the
 70 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 71 Constitution at the time the applicants' names are released
 72 pursuant to subsection (4).

73 Section 2. It is the finding of the Legislature that it is
 74 a public necessity that any personal identifying information, or
 75 any document containing personal identifying information, of an
 76 applicant for president, provost, or dean of any state
 77 university or Florida College System institution be made
 78 confidential and exempt from s. 119.07(1), Florida Statutes, and
 79 s. 24(a), Art. I of the State Constitution. It is also the
 80 finding of the Legislature that any meeting held for the purpose
 81 of identifying or vetting applicants for president, provost, or
 82 dean of any state university or Florida College System

83 institution and any portion of a meeting held for the purpose of
 84 establishing qualifications of, or any compensation framework to
 85 be offered to, such potential applicants that would disclose
 86 personal identifying information of an applicant or potential
 87 applicant be made exempt from s. 286.011, Florida Statutes, and
 88 s. 24(b), Art. I of the State Constitution. The task of filling
 89 the position of president, provost, or dean within a state
 90 university or Florida College System institution is often
 91 conducted by an executive search committee. Many, if not most,
 92 applicants for such a position are currently employed at another
 93 job at the time they apply and could jeopardize their current
 94 positions if it were to become known that they were seeking
 95 employment elsewhere. These exemptions from public records and
 96 public meeting requirements are needed to ensure that such a
 97 search committee can avail itself of the most experienced and
 98 desirable pool of qualified applicants from which to fill the
 99 position of president, provost, or dean of a state university or
 100 Florida College System institution. If potential applicants fear
 101 the possibility of losing their current jobs as a consequence of
 102 attempting to progress along their chosen career path or simply
 103 seeking different and more rewarding employment, failure to have
 104 these safeguards in place could have a chilling effect on the
 105 number and quality of applicants available to fill the position
 106 of president, provost, or dean of a state university or Florida
 107 College System institution.

108 Section 3. This act shall take effect October 1, 2013.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Government Operations
2 Subcommittee

3 Representative Tobia offered the following:

4
5 **Amendment (with title amendment)**

6 Remove lines 32-75 and insert:

7 (1) Any personal identifying information of an applicant
8 for president, provost, or dean of any state university or
9 Florida College System institution is confidential and exempt
10 from s. 119.07(1) and s. 24(a), Art. I of the State
11 Constitution.

12 (2) Any meeting held for the purpose of identifying or
13 vetting applicants for president, provost, or dean of any state
14 university or Florida College System institution is exempt from
15 s. 286.011 and s. 24(b), Art. I of the State Constitution. This
16 exemption does not apply to a meeting held for the purpose of
17 establishing qualifications of potential applicants or any
18 compensation framework to be offered to potential applicants.
19 However, any portion of such a meeting that would disclose
20 personal identifying information of an applicant or potential



Amendment No.

21 applicant is exempt from s. 286.011 and s. 24(b), Art. I of the
22 State Constitution.

23 (3) Any meeting or interview held after a final group of
24 applicants has been established and held for the purpose of
25 making a final selection to fill the position of president,
26 provost, or dean of any state university or Florida College
27 System institution is subject to the provisions of s. 286.011
28 and s. 24(b), Art. I of the State Constitution.

29 (4) The names of any applicants who comprise a final group
30 of applicants pursuant to subsection (3) must be released by the
31 state university or Florida College System institution no later
32 than 21 days before the date of the meeting at which final
33 action or vote is to be taken on the employment of the
34 applicants.

35 (5) Any personal identifying information of applicants who
36 comprise a final group of applicants pursuant to subsection (3)
37 become subject to the provisions of s. 119.07(1) and s. 24(a),
38 Art. I of the State Constitution at the time the names of such
39 applicants are released pursuant to subsection (4).

40 (6) This section is subject to the Open Government Sunset
41 Review Act in accordance with s. 119.15 and shall stand repealed
42 on October 2, 2018, unless reviewed and saved from repeal
43 through reenactment by the Legislature.

44 Section 2. The Legislature finds that it is a public
45 necessity that any personal identifying information of an
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Amendment No.


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T I T L E A M E N D M E N T

Remove lines 5-6 and insert:
identifying information of an applicant for

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1085 Public Records/Natural Gas Storage Facility Permit
SPONSOR(S): Agriculture & Natural Resources Subcommittee; Eagle
TIED BILLS: CS/HB 1083 **IDEN./SIM. BILLS:** SB 984

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	11 Y, 0 N, As CS	Renner	Blalock
2) Government Operations Subcommittee		JS Stramski	Williamson 
3) State Affairs Committee			

SUMMARY ANALYSIS

CS/HB 1083 establishes permitting requirements to store gas in a natural gas storage reservoir. It authorizes the Department of Environmental Protection (DEP) to regulate the storage of natural gas by reviewing and processing permit applications to operate such storage facilities. A permit application must contain detailed information relating to the natural gas storage reservoir, including proprietary business information.

This bill, which is linked to CS/HB 1083, creates a public records exemption for proprietary business information that an applicant for a natural gas storage facility permit provides to DEP. It provides a definition of "proprietary business information."

The bill authorizes the release of the confidential and exempt proprietary business information in certain circumstances.

The bill provides that the public records exemption is subject to the Open Sunset Review Act and stands repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

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

The bill has an effective date of October 1, 2013, if HB 1083 or similar legislation is adopted in the same legislative session.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records exemption. The bill creates a public records exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.¹

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act² provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

CS/HB 1083: Underground Natural Gas Storage

Currently, Florida has no regulatory provisions for underground natural gas storage facilities. The Oil and Gas Program is the permitting authority within the Department of Environmental Protection's (DEP's) Mining and Minerals Regulation Program in the Division of Water Resource Management (Division). Companies interested in the exploration or production of hydrocarbons in Florida are regulated by the Oil and Gas Program. Primary responsibilities of the Program include conservation of oil and gas resources, correlative rights protection, maintenance of health and human safety, and environmental protection. These concerns are addressed through a system of permits and field inspections to insure compliance. Primary duties include permitting geophysical operations (usually seismic prospecting), permitting drilling or operating wells (all separate permits), and tracking activities through use of a computer database. All permitted activities are inspected by staff of the Oil and Gas Program.

CS/HB 1083, the companion to this bill, establishes permitting requirements to store gas in a natural gas storage reservoir. CS/HB 1083 provides that before drilling a well to inject gas into and recover gas from a natural gas storage reservoir, a person who desires to conduct such operation must apply to DEP and pay a reasonable fee for processing to obtain a natural gas storage facility permit.

Under CS/HB 1083, each permit application must contain:

- A detailed, three-dimensional description of the natural gas storage reservoir, including geologic-based descriptions of the reservoir boundaries, and the horizontal and vertical dimensions.

¹ Section 24(c), Art. I of the State Constitution.

² See s. 119.15, F.S.

- A geographic description of the lateral reservoir boundary.
- A description and location of all injection, recovery, and observation wells, including casing and cementing plans for each well.
- A description of the reservoir protective area.
- Information demonstrating that the proposed natural gas storage reservoir is suitable for the storage and recovery of gas.
- Information identifying all known abandoned or active wells within the natural gas storage facility.
- A field-monitoring plan that requires, at a minimum, monthly field inspections of all wells that are part of the natural gas storage facility.
- A monitoring and testing plan for the well integrity.
- A well inspection plan that requires, at a minimum, the inspection of all wells that are part of the natural gas storage facility and plugged wells within the natural gas storage facility boundary.
- A casing inspection plan.
- A spill prevention and response plan.
- A well spacing plan.
- An operating plan for the natural gas storage reservoir, which must include gas capacities, anticipated operating conditions, and maximum storage pressure.
- A gas migration response plan.

Each application can require additional information that is deemed necessary to permit the development of wells, drilling of wells, and operation of exploratory investigation, injection of gas into and recovery of gas from reservoirs, and monitoring of wells.

Effect of Proposed Changes

The bill provides that proprietary business information held by DEP in accordance with its statutory duties with respect to an application for a natural gas storage facility permit is confidential and exempt³ from s. 119.07(1), F.S., and Article I, section 24(a) of the State Constitution.

The bill defines “proprietary business information” as information that:

- Is owned or controlled by the applicant or a person affiliated with the applicant.
- Is intended to be private and is treated by the applicant as private because disclosure would harm the applicant or the applicant's business operations.
- Has not been disclosed except as required by law or a private agreement that provides that the information will not be released to the public.
- Is not publicly available or otherwise readily ascertainable through proper means from another source in the same configuration as requested by the department.
- Includes, but is not limited to:
 - Trade secrets.
 - Leasing plans, real property acquisition plans, exploration budgets, or marketing studies, the disclosure of which would impair the efforts of the applicant or its affiliates to contract for goods or services or to acquire real property interests on favorable terms.
 - Competitive interests, which may include well design or completion plans, geological or engineering studies related to storage reservoir performance characteristics, or field utilization strategies or operating plans, the disclosure of which would impair the competitive business of the applicant providing the information.

³ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991) If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See Attorney General Opinion 85-62 (August 1, 1985).

- May be found in a document:
 - Filed with the department by the applicant or affiliated person seeking a natural gas storage facility permit pursuant to s. 377.2407, F.S.; or
 - Sent to the department from another governmental entity for use by the department in the performance of its duties. This subparagraph applies only if the information is otherwise confidential or exempt as held by the governmental entity.

Confidential and exempt proprietary business information may be disclosed pursuant to a court order; if the applicant to which it pertains gives prior written consent; or to another state agency in this or another state or to a federal agency, if the recipient agrees in writing to maintain the confidential and exempt status of the information and has verified in writing its legal authority to maintain such confidentiality.

The bill provides that the public records exemption is subject to the Open Sunset Review Act and stands repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the State Constitution.⁴

The bill provides an effective date contingent upon the passage of HB 1083 or similar legislation.

B. SECTION DIRECTORY:

Section 1. Creates s. 377.24075, F.S., creating an exemption from public records requirements for certain information provided in an application for a natural gas storage facility permit to inject and recover gas into and from a natural gas storage reservoir; providing for future review and repeal of the public records exemption under the Open Government Sunset Review Act.

Section 2. Provides a statement of public necessity.

Section 3. Provides an effective date contingent upon the passage of HB 1083 or similar legislation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

⁴ Section 24(c), Art. I of the State Constitution.

D. FISCAL COMMENTS:

The bill likely could create a minimal fiscal impact on DEP, because staff responsible for complying with public records requests could require training related to the creation of the public records exemption. In addition, DEP could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the department.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records exemption. The bill creates a public records exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution, requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a public records exemption; thus, it includes a public necessity statement:

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption limited to proprietary business information that an entity seeking a natural gas storage permit must submit to DEP.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or require additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments: Trade Secrets

The bill does not define "trade secret" for purposes of the public record exemption. Many public record exemptions, including public record exemptions for proprietary business information, provide that it applies to a trade secret as defined in the Uniform Trade Secrets Act.

Other Comments: Release of the Confidential and Exempt Information

The bill authorizes release of the confidential and exempt proprietary business information to another "state agency in this or another state or to a federal agency" if certain requirements are met. It does not authorize release to local governments. In addition, many exemptions provide for release to "another governmental entity," which would include a state agency in another state or a federal agency.

Other Comments: Retroactive Application

The Supreme Court of Florida has ruled that a public records exemption is not to be applied retroactively unless the legislation clearly expresses intent that such exemption is to be applied

retroactively. The bill does expressly provide that the public records exemption applies to identifying information held before, on, or after the effective date of the exemption.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2013, the Agriculture & Natural Resources Subcommittee amended and reported HB 1085 favorably as a committee substitute (CS). The CS conforms the bill to a more standard format used for similar bills amending chapter 119, F.S., applies similar standards that define what classes of information qualify for the exemption to a public record, and prescribes the scope of protection DEP must use.

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A bill to be entitled
 An act relating to public records; creating s.
 377.24075, F.S.; creating an exemption from public
 records requirements for certain information provided
 in an application for a natural gas storage facility
 permit to inject and recover gas into and from a
 natural gas storage reservoir; providing for future
 review and repeal of the public records exemption
 under the Open Government Sunset Review Act; providing
 a statement of public necessity; providing a
 contingent effective date.

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

Section 1. Section 377.24075, Florida Statutes, is created
 to read:

377.24075 Exemption from public records requirements.-
Proprietary business information held by the Department of
Environmental Protection in accordance with its statutory duties
with respect to an application for a natural gas storage
facility permit is confidential and exempt from s. 119.07(1) and
s. 24(a), Art. I of the State Constitution.

(1) As used in this section, the term "proprietary
business information" means information that:

(a) Is owned or controlled by the applicant or a person
affiliated with the applicant.

27 (b) Is intended to be private and is treated by the
 28 applicant as private because disclosure would harm the applicant
 29 or the applicant's business operations.

30 (c) Has not been disclosed except as required by law or a
 31 private agreement that provides that the information will not be
 32 released to the public.

33 (d) Is not publicly available or otherwise readily
 34 ascertainable through proper means from another source in the
 35 same configuration as requested by the department.

36 (e) Includes, but is not limited to:

37 1. Trade secrets.

38 2. Leasing plans, real property acquisition plans,
 39 exploration budgets, or marketing studies, the disclosure of
 40 which would impair the efforts of the applicant or its
 41 affiliates to contract for goods or services or to acquire real
 42 property interests on favorable terms.

43 3. Competitive interests, which may include well design or
 44 completion plans, geological or engineering studies related to
 45 storage reservoir performance characteristics, or field
 46 utilization strategies or operating plans, the disclosure of
 47 which would impair the competitive business of the applicant
 48 providing the information.

49 (f) May be found in a document:

50 1. Filed with the department by the applicant or
 51 affiliated person seeking a natural gas storage facility permit
 52 pursuant to s. 377.2407; or

53 2. Sent to the department from another governmental entity
 54 for use by the department in the performance of its duties. This

55 | subparagraph applies only if the information is otherwise
 56 | confidential or exempt as held by the governmental entity.

57 | (2) The department may disclose confidential and exempt
 58 | proprietary business information:

59 | (a) Pursuant to a court order;

60 | (b) If the applicant to which it pertains gives prior
 61 | written consent; or

62 | (c) To another state agency in this or another state or to
 63 | a federal agency if the recipient agrees in writing to maintain
 64 | the confidential and exempt status of the document, material, or
 65 | other information and has verified in writing its legal
 66 | authority to maintain such confidentiality.

67 | (3) This section is subject to the Open Government Sunset
 68 | Review Act in accordance with s. 119.15 and shall stand repealed
 69 | on October 2, 2018, unless reviewed and saved from repeal
 70 | through reenactment by the Legislature.

71 | Section 2. (1) The Legislature finds that it is a public
 72 | necessity that proprietary business information provided to the
 73 | Department of Environmental Protection which relates to trade
 74 | secrets, leasing plans, real property acquisition plans,
 75 | exploration budgets, proprietary well design or completion
 76 | plans, geological or engineering studies related to storage
 77 | reservoir performance characteristics, field utilization
 78 | strategies or operating plans, commercial or marketing studies,
 79 | or other proprietary business information provided by a person
 80 | in conjunction with an application to establish an underground
 81 | natural gas storage facility as defined in s. 377.19, Florida
 82 | Statutes, be made confidential and exempt from s. 119.07(1),

83 Florida Statutes, and s. 24(a), Article I of the State
84 Constitution. The disclosure of such proprietary business
85 information could injure an applicant in the marketplace by
86 giving competitors detailed insight into technical assessments,
87 design, and experience, thereby putting the applicant at a
88 competitive disadvantage. Without this exemption, applicants
89 could be less willing to expend or commit to expend the
90 substantial resources necessary to determine the feasibility of
91 establishing, permitting, and operating an underground natural
92 gas storage facility, resulting in limited opportunities for
93 developing the additional natural gas storage capacity that this
94 state critically needs to meet current and future residential,
95 commercial, and industrial energy needs. The resulting lack of
96 resources could hinder the ability of electric utility services
97 to optimize services to their customers and could adversely
98 affect their customers by depriving them of the opportunities
99 and energy security that comes with domestic reserves of natural
100 gas stored underground.

101 (2) Proprietary business information derives actual or
102 potential independent economic value from not being generally
103 known to, and not being readily ascertainable by, other persons
104 who can derive economic value from its disclosure or use. The
105 Department of Environmental Protection, in the course of
106 reviewing and issuing permitting decisions relating to
107 underground natural gas storage facility permits, may need to
108 obtain proprietary business information. Disclosure of such
109 information could destroy the value of that property and could
110 cause economic harm to the applicant providing the information.

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2013

111 Additionally, the reduced competition for provision of domestic
112 underground storage of natural gas could also adversely affect
113 energy utility customers. The exemption created by this act will
114 enhance the ability to increase domestic storage of natural gas,
115 thereby creating a significant benefit to energy utility
116 customers. In finding that the public records exemption created
117 by this act is a public necessity, the Legislature also finds
118 that any public benefit derived from disclosure of the
119 information is significantly outweighed by the public and
120 private harm that could result from disclosure after submittal
121 of such proprietary business information.

122 Section 3. This act shall take effect October 1, 2013, if
123 HB 1083 or similar legislation is adopted in the same
124 legislative session or an extension thereof and becomes a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1399 Firefighter and Police Officer Pension Plans
SPONSOR(S): Rooney, Jr.
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 458

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Harrington	Williamson
2) Appropriations Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Municipal Firefighters' Pension Trust Fund and the Police Officers' Trust Fund were created to provide uniform retirement system benefits for firefighters, who are employed by a municipal or special fire district, and for municipal police officers. 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 the boundaries of the municipality. The Police Officers' Retirement Trust Fund is funded through an excise tax of 0.85 percent imposed on the gross premiums on casualty insurance policies covering property within the boundaries of the municipality. Current law requires the use of premium tax revenues to fund additional or extra pension benefits, which has been inconsistently interpreted.

The bill substantially changes how insurance premium tax revenues must be used in the funding of firefighter and police officer pension plans under chapters 175 and 185, F.S. The bill amends parallel provisions in chapters 175 and 185, F.S., and specifies that in order to receive insurance premium tax revenues, those revenues must be used as follows:

- The amount of premium tax revenues received in 1997 must be used to fund the benefits in existence on March 12, 1999.
- The increase in additional premium tax revenues between 1997 and 2012 must be used to fund any benefits above the base benefits.
- Premium tax revenues in excess of the amount received in 2012, and any accumulations of additional premium tax revenues that have not been applied to fund extra benefits must be used as follows:
 - If the plan is less than 80 percent funded, then:
 - Fifty percent of the revenues must be used to pay actuarial deficiencies;
 - Twenty-five percent of the revenues must be used to fund base benefits; and
 - Twenty-five percent of the revenues must fund defined contribution benefits.
 - If the plan is funded at 80 percent or greater, then:
 - Fifty percent of the revenues must be used to fund base benefits; and
 - Fifty percent of the revenues must fund defined contribution benefits.
- Premium tax revenues may not fund new defined benefits after March 1, 2013.

The bill permits a reduction in plan benefits, but requires 25 percent of the freed up money to be used towards funding actuarial deficiencies. The bill requires plan sponsors to create a defined contribution component within their plans.

The bill clarifies that a maximum of 300 hours of overtime may be included for purposes of calculating municipal police officer pension plan benefits.

The bill does not appear to have a fiscal impact on state government. However, the bill has an indeterminate fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

State Constitution Requirements

Section 14, Art. X of the State Constitution provides that a governmental unit responsible for a retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide an increase in benefits to members or beneficiaries without concurrent provisions for funding the increase on a sound actuarial basis.

The 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 State 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 Florida Department of Management Services, Division of Retirement (division).

Municipal Firefighters' Pension Trust Fund and Police Officers' Retirement Trust Fund

The Marvin B. Clayton Firefighters' and Police Officers' Pension Trust Fund Acts² declare a legitimate state purpose to provide a uniform retirement system for the benefit of firefighters and municipal police officers. All municipal and special district firefighters and all municipal police officers retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of firefighters' and police officers' pension trust funds.³

Local firefighter pension plans are governed by chapter 175, F.S., which is known as the Marvin B. Clayton Firefighters Pension Trust Fund Act. 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 cities. Fourteen years later, the Legislature enacted chapter 185, F.S., the Marvin B. Clayton Police Officers' Pension Trust Fund Act, which provides a similar funding mechanism for municipal police officers. Special fire control districts became eligible to participate under chapter 175, F.S., in 1993.

The acts set forth the minimum benefits or minimum standards for pensions for municipal firefighters and police officers. The benefits provided in the acts 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.

¹ Section 112.62, F.S.

² See chapters 175 and 185, F.S.

³ See ss. 175.021(1) and 185.01(1), F.S.

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.⁴ It is payable by the insurers to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the division. In 2011, premium tax distributions to municipalities and special fire control districts from the Firefighters' Pension Trust Fund amounted to \$71.7 million.⁵

The Police Officers' Retirement Trust Fund is funded through an excise tax of 0.85 percent imposed on the gross premiums on casualty insurance policies covering property within the boundaries of the municipality.⁶ Similar to the Firefighters' Pension Trust Fund, the excise tax is payable to the DOR, and the net proceeds are transferred to the appropriate fund at the division. In 2011, premium tax distributions to municipalities from the Police Officers' Retirement Trust Fund amounted to \$59.6 million.⁷

To qualify for insurance premium tax dollars, plans must meet requirements found in chapters 175 and 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. The board of trustees must invest and reinvest the assets of the fund according to s. 175.071, F.S., or s. 185.06, F.S., as applicable, unless specifically authorized to vary from the law.

If the division deems that a firefighter or police officer pension plan created pursuant to these chapters is not in compliance with those chapters, the sponsoring municipality could be denied its insurance premium tax revenues.

Premium Tax Revenue Restrictions

In 1999, the Legislature passed legislation that made virtually all provisions of chapters 175 and 185, F.S., expressly applicable to all participating police officer and firefighter pension plans, except the local law plans established by the cities of Jacksonville, Coral Gables, and Miami.⁸ All pension plans falling under these chapters are required to meet specific "minimum benefit" standards. The law requires insurance premium tax revenues over the amount received for calendar year 1997, be used to provide additional or "extra benefits" in firefighter and police officer pension plans. The term "extra benefits" means benefits in addition to or greater than those provided to general employees of the municipality, and in addition to those in existence for firefighters and police officers on March 12, 1999.⁹

Until August 2012, the division had consistently interpreted the law to require that premium tax revenues be used first to meet any minimum benefit requirements and those other pension benefits that were in place on March 12, 1999. Once the plan was in compliance with their minimum benefits requirements, any additional premium tax revenues had to be used to fund extra benefits. Plans were not permitted to reduce pension benefits below the minimum benefits level or the level of pension benefits in effect on March 12, 1999, if greater.

In August 2012, the division responded to a letter from the City of Naples, Florida, advising that its ongoing interpretation of s. 185.35(2), F.S., "appears inaccurate." The division was asked whether a city could negotiate with its police officers to reduce benefits below the level of benefits provided on March 12, 1999, and whether that reduction would jeopardize its premium tax revenues. In response, the division advised that for local law plans in effect on October 1, 1998, the law compels the plan to provide chapter minimum benefits only to the extent that those benefits can be funded with additional

⁴ Section 175.101, F.S.

⁵ A copy of the 2011 Premium Tax Distribution report is available online at:

http://www.dms.myflorida.com/human_resource_support/retirement/local_retirement_plans/municipal_police_and_fire_plans

⁶ Section 185.08, F.S.

⁷ *Supra* at n. 5.

⁸ See chapter 99-1, L.O.F., and ss. 175.351(3) and 185.35(3), F.S. The law excludes plans created by special act before May 27, 1939, which include the cities of Jacksonville, Coral Gables, and Miami.

⁹ See ss. 175.351 and 185.35, F.S.

premium tax revenues. Thus, the division's new interpretation requires plans in effect on October 1, 1998, to provide minimum chapter benefits *only* to the extent that they can be funded with premium tax revenues received in excess of the amount received for calendar year 1997. If additional premium tax revenues are available after providing the chapter minimum benefits, additional premium tax revenues must be used to fund extra benefits.

Utilizing this new interpretation, it appears that the following may occur:

- The plan's pension benefits could be reduced to the level that can be funded solely by those additional premium tax revenues received in excess of the 1997 level;
- A plan sponsor may redirect, at its discretion, its pre-1997 premium tax revenues from funding minimum pension benefits to funding other non-pension retirement benefits;
- A plan sponsor could reduce its mandatory contribution it was previously making to the plan to fund minimum benefits and redirect those monies to other municipal purposes; and
- Post-1997 insurance premium tax revenues used previously to fund extra benefits would be used to fund the minimum benefits.

Municipal Police Pension Plans Definition of "Salary"

In 2011, the Legislature imposed a 300 hour cap on the amount of overtime hours to be included in the calculation of retirement benefits in ss. 112.66, 175.032, and 185.02, F.S.¹⁰ Section 112.66, F.S., provides that "a local government may include up to 300 hours per year of overtime compensation" when calculating retirement benefits. Likewise, ss. 175.032(3) and 185.02(4), F.S., provide that "up to 300 hours per year in overtime compensation may be included" for purposes of calculating firefighter and police officer retirement pension benefits. However, s. 185.02(4), F.S., also provides that overtime for police officers, for purposes of calculating benefits, may not be less than 300 hours per officer per calendar year for service earned under collective bargaining agreements in place before July 1, 2011.

Effect of the Bill

Use of Insurance Premium Tax Revenues

The bill substantially changes how insurance premium tax revenues must be used in the funding of firefighter and police officer pension plans under chapters 175 and 185, F.S.

The bill amends parallel provisions in chapters 175 and 185, F.S., and specifies that in order to receive insurance premium tax revenues, those revenues must be used as follows:

- The amount of premium tax revenues received in 1997 must be used to fund the benefits in existence on March 12, 1999.
- The increase in additional premium tax revenues between 1997 and 2012 must be used to fund any benefits above the base benefits.
- Premium tax revenues in excess of the amount received in 2012, and any accumulations of additional premium tax revenues that have not been applied to fund extra benefits must be used as follows:
 - If the plan is less than 80 percent funded, then:
 - Fifty percent of the revenues must be used to pay actuarial deficiencies;
 - Twenty-five percent of the revenues must be used to fund base benefits; and
 - Twenty-five percent of the revenues must fund defined contribution benefits.
 - If the plan is funded at 80 percent or greater, then:
 - Fifty percent of the revenues must be used to fund base benefits; and
 - Fifty percent of the revenues must fund defined contribution benefits.
- Premium tax revenues may not fund new defined benefits after March 1, 2013.

Reduction in Plan Benefits

The bill provides that plan benefits may be reduced if the plan continues to meet the base benefits of the plan and minimum chapter standards. If the plan sponsor reduces benefits, 25 percent of the moneys freed up by the reduction in benefits must be used to fund actuarial deficiencies.

Defined Contribution Component

The bill requires plan sponsors to create a defined contribution component within their plans by October 1, 2013, or upon the creation date of a new participating plan. Plans created by special act of the Legislature have until July 1, 2014, to create a defined contribution component.

Definitions

The bill creates new definitions in both chapters 175 and 185, F.S., which include:

- "Additional premium tax revenues" means revenues received by a municipality (or special fire control district), which exceed base premium tax revenues.
- "Base benefits" means the level of benefits in existence for firefighters or police officers, as applicable, on March 12, 1999.
- "Base premium tax revenues" means the revenues received by a municipality (or special fire control district) equal to the amount of such revenues received in calendar year 1997.
- "Defined contribution plan" means the component of a local law plan to which deposits are made to provide benefits for firefighters or police officers, as applicable. Such component is an element of a local law plan and exists in conjunction with the defined benefit component that meets the base benefits and minimum standards of the chapter. Benefits provided by a defined contribution plan must be provided through individual member accounts and are limited to the contributions made into each member's account and the actual accumulated earnings, net of expenses, earned on the member's account.
- "Long-term funded ratio" or "funded ratio" means the ratio of the actuarial value of assets of the plan to the actuarial accrued liabilities of the plan, as reported in the most recent actuarial valuation of the plan.
- "Special benefits" means benefits provided in a defined contribution plan for firefighters or police officers, as applicable.

The bill also revises the definition of "local law plan" to provide that it includes both a defined benefit plan component and a defined contribution plan component.

Municipal Police Officer Definition of "Salary"

The bill amends s. 185.02(4), F.S., to remove the sentence that provides that local law plans may limit overtime to not less than 300 hours per officer per calendar year for the calculation of retirement benefits. Deleting this provision should clarify that overtime is capped at 300 hours, with no required minimum, for the calculation of police officer retirement benefits.

Important State Interest

The bill provides that the act fulfills an important state interest as related to public pension plans.

Effective Date

The bill provides an effective date of July 1, 2013.

B. SECTION DIRECTORY:

Section 1 amends s. 175.021, F.S., revising the legislative declaration to require all plans to meet the requirements of chapter 175, F.S., in order to receive insurance premium tax revenues.

Section 2 amends s. 175.032, F.S., revising definitions to conform to changes made by the act and adding new definitions.

Section 3 amends s. 175.071, F.S., conforming a cross-reference.

Section 4 amends s. 175.091, F.S., revising existing payment provisions and providing an additional mandatory payment by the municipality or special fire control district to the firefighters' pension trust fund.

Section 5 amends s. 175.351, F.S., relating to municipalities and special fire control districts that have their own pension plans and want to participate in the distribution of a tax fund; revising how income from the premium tax must be used; requiring plan sponsors to have a defined contribution plan in place by a certain date.

Section 6 amends s. 185.01, F.S., revising the legislative declaration to require all plans to meet requirements of chapter 185, F.S., in order to receive insurance premium tax revenues.

Section 7 amends s. 185.02, F.S., revising definitions to conform to changes made by the act and adding new definitions; deleting a provision allowing a local law plan to limit the amount of overtime payments which can be used for retirement benefit calculations.

Section 8 amends s. 185.06, F.S., conforming a cross-reference.

Section 9 amends s. 185.07, F.S., revising existing payment provisions and providing for an additional mandatory payment by the municipality to the police officers' retirement trust fund.

Section 10 amends s. 185.35, F.S., relating to municipalities that have their own pension plans for police officers and want to participate in the distribution of a tax fund; revising how income from the premium tax must be used; requiring plan sponsors to have a defined contribution plan in place by a certain date.

Section 11 provides a declaration of important state interest.

Section 12 provides an effective date of July 1, 2013.

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:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may reduce local police officer and firefighter pension plan unfunded liabilities. The overall costs or savings associated with the bill are indeterminate, since each of the approximately 350 plans affected by the bill has a different funding level status.

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:

Actuarial Requirements

Article X, s. 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Article X, s. 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act" (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers. According to the division, this bill appears to comply with the requirements of Article X, s. 14 of the State Constitution.¹¹

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments: Department of Management Services

The Department of Management Services provided the following comments regarding House Bill 1399:¹²

The bill includes a definition of a "defined contribution plan" as well as retaining the definition of a "supplemental plan." In 1999, there existed sixteen cities identified as having "supplemental plans." The definition included both supplemental plans that provided a defined benefit, as well as defined contribution (share) plans. Today, there is one remaining supplemental plan that

¹¹ Department of Management Services, Bill Analysis 2013 for HB 1399, dated March 15, 2013 (on file with the Government Operations Subcommittee).

¹² *Id.* at 6.

provides a defined benefit with the state premium tax moneys. All of the remaining original supplemental plans, and the many that have been created since 1999, place the state moneys (or some level of the state moneys) in a supplemental (share) plan. These supplemental share plans are defined contribution plans.

- The bill is not clear if the City is required to establish a new defined contribution plan by October 1, 2013, or for purposes of sections 175.351(8) and 185.35(8), or is the existing supplemental share plan deemed in compliance with this requirement?
- Also, the bill is not clear with regard to the application of the placement of the increases in the state premium tax moneys for municipalities that already have a supplemental share plan in existence prior to enactment of this legislation. Are they subject to the provisions of sections 175.351(1) and 185.35(1)? Some of the existing plans place all of the state moneys in the supplemental share plan while others place the increases (or some portion thereof) since 1999 in a supplemental share plan.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to firefighter and police officer
3 pension plans; amending s. 175.021, F.S.; revising the
4 legislative declaration to require all plans to meet
5 the requirements of ch. 175, F.S., in order to receive
6 insurance premium tax revenues; amending s. 175.032,
7 F.S.; revising definitions to conform to changes made
8 by the act and adding new definitions; amending s.
9 175.071, F.S.; conforming a cross-reference; amending
10 s. 175.091, F.S.; revising existing payment provisions
11 and providing an additional mandatory payment by the
12 municipality or special fire control district to the
13 firefighters' pension trust fund; amending s. 175.351,
14 F.S., relating to municipalities and special fire
15 control districts that have their own pension plans
16 and want to participate in the distribution of a tax
17 fund; revising how income from the premium tax must be
18 used; requiring plan sponsors to have a defined
19 contribution plan in place by a certain date; amending
20 s. 185.01, F.S.; revising the legislative declaration
21 to require all plans to meet the requirements of ch.
22 185, F.S., in order to receive insurance premium tax
23 revenues; amending s. 185.02, F.S.; revising
24 definitions to conform to changes made by the act and
25 adding new definitions; deleting a provision allowing
26 a local law plan to limit the amount of overtime
27 payments which can be used for retirement benefit
28 calculations; amending s. 185.06, F.S.; conforming a

29 cross-reference; amending s. 185.07, F.S.; revising
 30 existing payment provisions and providing for an
 31 additional mandatory payment by the municipality to
 32 the police officers' retirement trust fund; amending
 33 s. 185.35, F.S., relating to municipalities that have
 34 their own pension plans for police officers and want
 35 to participate in the distribution of a tax fund;
 36 revising how income from the premium tax must be used;
 37 requiring plan sponsors to have a defined contribution
 38 plan in place by a certain date; providing a
 39 declaration of important state interest; providing an
 40 effective date.

41

42 Be It Enacted by the Legislature of the State of Florida:

43

44 Section 1. Subsection (2) of section 175.021, Florida
 45 Statutes, is amended to read:

46 175.021 Legislative declaration.—

47 (2) This chapter hereby establishes, for all municipal and
 48 special district pension plans existing ~~now or hereafter~~ under
 49 this chapter, including chapter plans and local law plans, base
 50 ~~minimum~~ benefits and minimum standards for the operation and
 51 funding of such plans, hereinafter referred to as firefighters'
 52 pension trust funds, which must be met as a condition precedent
 53 to the plan or plan sponsor receiving a distribution of
 54 insurance premium tax revenues under s. 175.121. The base
 55 ~~minimum~~ benefits and minimum standards for each plan as set
 56 forth in this chapter may not be diminished by local charter,

57 ordinance, or resolution or by special act of the Legislature,
 58 ~~or nor may the minimum benefits or minimum standards~~ be reduced
 59 or offset by any other local, state, or federal law that may
 60 include firefighters in its operation, except as provided under
 61 s. 112.65.

62 Section 2. Section 175.032, Florida Statutes, is amended
 63 to read:

64 175.032 Definitions.—For any municipality, special fire
 65 control district, chapter plan, local law municipality, local
 66 law special fire control district, or local law plan under this
 67 chapter, the term ~~following words and phrases have the following~~
 68 meanings:

69 (1) "Additional premium tax revenues" means revenues
 70 received by a municipality or special fire control district
 71 pursuant to s. 175.121 which exceed base premium tax revenues.

72 ~~(2)(1)(a)~~ "Average final compensation" for:

73 (a) A full-time firefighter means one-twelfth of the
 74 average annual compensation of the 5 best years of the last 10
 75 years of creditable service before ~~prior to~~ retirement,
 76 termination, or death, or the career average as a full-time
 77 firefighter since July 1, 1953, whichever is greater. A year is
 78 ~~shall be~~ 12 consecutive months or such other consecutive period
 79 of time as is used and consistently applied.

80 (b) ~~"Average final compensation" for~~ A volunteer
 81 firefighter means the average salary of the 5 best years of the
 82 last 10 best contributing years before a ~~prior to~~ change in
 83 status to a permanent full-time firefighter or retirement as a
 84 volunteer firefighter or the career average of a volunteer

85 firefighter, since July 1, 1953, whichever is greater.

86 (3) "Base benefits" means the level of benefits in
 87 existence for firefighters on March 12, 1999.

88 (4) "Base premium tax revenues" means revenues received by
 89 a municipality or special fire control district pursuant to s.
 90 175.121 equal to the amount of such revenues received for
 91 calendar year 1997.

92 (5)~~(2)~~ "Chapter plan" means a separate defined benefit
 93 pension plan for firefighters which incorporates by reference
 94 the provisions of this chapter and has been adopted by the
 95 governing body of a municipality or special district. Except as
 96 may be specifically authorized in this chapter, the provisions
 97 of a chapter plan may not differ from the plan provisions set
 98 forth in ss. 175.021-175.341 and 175.361-175.401. Actuarial
 99 valuations of chapter plans shall be conducted by the division
 100 as provided by s. 175.261(1).

101 (6)~~(3)~~ "Compensation" or "salary" means, for
 102 noncollectively bargained service earned before July 1, 2011, or
 103 for service earned under collective bargaining agreements in
 104 place before July 1, 2011, the fixed monthly remuneration paid a
 105 firefighter. If remuneration is based on actual services
 106 rendered, as in the case of a volunteer firefighter, the term
 107 means the total cash remuneration received yearly for such
 108 services, prorated on a monthly basis. For noncollectively
 109 bargained service earned on or after July 1, 2011, or for
 110 service earned under collective bargaining agreements entered
 111 into on or after July 1, 2011, the term has the same meaning
 112 except that when calculating retirement benefits, up to 300

113 hours per year in overtime compensation may be included as
 114 specified in the plan or collective bargaining agreement, but
 115 payments for accrued unused sick or annual leave may not be
 116 included.

117 (a) Any retirement trust fund or plan that meets the
 118 requirements of this chapter does not, solely by virtue of this
 119 subsection, reduce or diminish the monthly retirement income
 120 otherwise payable to each firefighter covered by the retirement
 121 trust fund or plan.

122 (b) The member's compensation or salary contributed as
 123 employee-elective salary reductions or deferrals to any salary
 124 reduction, deferred compensation, or tax-sheltered annuity
 125 program authorized under the Internal Revenue Code shall be
 126 deemed to be the compensation or salary the member would receive
 127 if he or she were not participating in such program and ~~shall be~~
 128 treated as compensation for retirement purposes under this
 129 chapter.

130 (c) For any person who first becomes a member in any plan
 131 year beginning on or after January 1, 1996, compensation for
 132 that plan year may not include any amounts in excess of the
 133 Internal Revenue Code s. 401(a)(17) limitation, as amended by
 134 the Omnibus Budget Reconciliation Act of 1993, which limitation
 135 of \$150,000 shall be adjusted as required by federal law for
 136 qualified government plans and shall be further adjusted for
 137 changes in the cost of living in the manner provided by Internal
 138 Revenue Code s. 401(a)(17)(B). For any person who first became a
 139 member before the first plan year beginning on or after January
 140 1, 1996, the limitation on compensation may not be less than the

141 maximum compensation amount that was allowed to be taken into
 142 account under the plan in effect on July 1, 1993, which
 143 limitation shall be adjusted for changes in the cost of living
 144 since 1989 in the manner provided by Internal Revenue Code s.
 145 401(a)(17)(1991).

146 (7)~~(4)~~ "Creditable service" or "credited service" means
 147 the aggregate number of years of service, and fractional parts
 148 of years of service, of any firefighter, omitting intervening
 149 years and fractional parts of years when such firefighter may
 150 not have been employed by the municipality or special fire
 151 control district, subject to the following conditions:

152 (a) A ~~No~~ firefighter may not ~~will~~ receive credit for years
 153 or fractional parts of years of service if he or she has
 154 withdrawn his or her contributions to the fund for those years
 155 or fractional parts of years of service, unless the firefighter
 156 repays into the fund the amount he or she has withdrawn, plus
 157 interest determined by the board. The member shall have at least
 158 90 days after his or her reemployment to make repayment.

159 (b) A firefighter may voluntarily leave his or her
 160 contributions in the fund for ~~a period of~~ 5 years after leaving
 161 the employ of the fire department, pending the possibility of
 162 being rehired by the same department, without losing credit for
 163 the time he or she has participated actively as a firefighter.
 164 If the firefighter is not reemployed as a firefighter, with the
 165 same department, within 5 years, his or her contributions shall
 166 be returned without interest.

167 (c) Credited service under this chapter shall be provided
 168 only for service as a firefighter, ~~as defined in subsection (8),~~

169 or for military service and does not include credit for any
 170 other type of service. A municipality ~~may~~, by local ordinance,
 171 or a special fire control district ~~may~~, by resolution, may
 172 provide for the purchase of credit for military service prior to
 173 employment as well as for prior service as a firefighter for
 174 some other employer as long as a firefighter is not entitled to
 175 receive a benefit for such prior service ~~as a firefighter~~. For
 176 purposes of determining credit for prior service as a
 177 firefighter, in addition to service as a firefighter in this
 178 state, credit may be given for federal, other state, or county
 179 service if the prior service is recognized by the Division of
 180 State Fire Marshal as provided under chapter 633, or the
 181 firefighter provides proof to the board of trustees that his or
 182 her service is equivalent to the service required to meet the
 183 definition of a firefighter under subsection (12) ~~(8)~~.

184 (8) ~~(5)~~ "Deferred Retirement Option Plan" or "DROP" means a
 185 local law plan retirement option in which a firefighter may
 186 elect to participate. A firefighter may retire for all purposes
 187 of the plan and defer receipt of retirement benefits into a DROP
 188 account while continuing employment with his or her employer.
 189 However, a firefighter who enters ~~the~~ DROP and who is otherwise
 190 eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from
 191 participating, or continuing to participate, in a supplemental
 192 plan in existence on, or created after, March 12, 1999 ~~the~~
 193 ~~effective date of this act.~~

194 (9) "Defined contribution plan" means the component of a
 195 local law plan to which deposits are made to provide benefits
 196 for firefighters, or for firefighters and police officers if

197 both are included, under this chapter. Such component is an
 198 element of a local law plan and exists in conjunction with the
 199 defined benefit component that meets the base benefits and
 200 minimum standards of this chapter. The retirement benefits of
 201 the defined contribution plan shall be provided through
 202 individual member accounts in accordance with the applicable
 203 provisions of the Internal Revenue Code and related regulations
 204 and are limited to the contributions made into each member's
 205 account and the actual accumulated earnings, net of expenses,
 206 earned on the member's account.

207 (10)~~(6)~~ "Division" means the Division of Retirement of the
 208 Department of Management Services.

209 (11)~~(7)~~ "Enrolled actuary" means an actuary who is
 210 enrolled under Subtitle C of Title III of the Employee
 211 Retirement Income Security Act of 1974 and who is a member of
 212 the Society of Actuaries or the American Academy of Actuaries.

213 (12)~~(8)~~(a) "Firefighter" means any person employed solely
 214 by a constituted fire department of any municipality or special
 215 fire control district who is certified as a firefighter as a
 216 condition of employment in accordance with s. 633.35 and whose
 217 duty it is to extinguish fires, to protect life, or to protect
 218 property. The term includes all certified, supervisory, and
 219 command personnel whose duties include, in whole or in part, the
 220 supervision, training, guidance, and management responsibilities
 221 of full-time firefighters, part-time firefighters, or auxiliary
 222 firefighters but does not include part-time firefighters or
 223 auxiliary firefighters. However, for purposes of this chapter
 224 only, the term also includes public safety officers who are

225 responsible for performing both police and fire services, who
 226 are certified as police officers or firefighters, and who are
 227 certified by their employers to the Chief Financial Officer as
 228 participating in this chapter before October 1, 1979. Effective
 229 October 1, 1979, public safety officers who have not been
 230 certified as participating in this chapter are considered police
 231 officers for retirement purposes and are eligible to participate
 232 in chapter 185. Any plan may provide that the fire chief has an
 233 option to participate, or not, in that plan.

234 (b) "Volunteer firefighter" means any person whose name is
 235 carried on the active membership roll of a constituted volunteer
 236 fire department or a combination of a paid and volunteer fire
 237 department of any municipality or special fire control district
 238 and whose duty it is to extinguish fires, to protect life, and
 239 to protect property. Compensation for services rendered by a
 240 volunteer firefighter shall not disqualify him or her as a
 241 volunteer. A person shall not be disqualified as a volunteer
 242 firefighter solely because he or she has other gainful
 243 employment. Any person who volunteers assistance at a fire but
 244 is not an active member of a department described herein is not
 245 a volunteer firefighter within the meaning of this paragraph.

246 (13)~~(9)~~ "Firefighters' Pension Trust Fund" means a trust
 247 fund, by whatever name known, as provided under s. 175.041, for
 248 the purpose of assisting municipalities and special fire control
 249 districts in establishing and maintaining a retirement plan for
 250 firefighters.

251 (14)~~(10)~~ "Local law municipality" is any municipality in
 252 which ~~there exists~~ a local law plan exists.

253 ~~(15)-(11)~~ "Local law plan" means a retirement defined
 254 benefit pension plan, which includes both a defined benefit plan
 255 component and a defined contribution plan component, for
 256 firefighters, or for firefighters or police officers if both are
 257 ~~where~~ included, as described in s. 175.351, established by
 258 municipal ordinance, special district resolution, or special act
 259 of the Legislature, which ~~enactment~~ sets forth all plan
 260 provisions. Local law plan provisions may vary from the
 261 provisions of this chapter if the base, ~~provided that required~~
 262 ~~minimum~~ benefits and minimum standards of this chapter are met.
 263 However, any such variance must ~~shall~~ provide a greater benefit
 264 for firefighters. Actuarial valuations of local law plans shall
 265 be conducted by an enrolled actuary, as provided in s.
 266 175.261(2).

267 ~~(16)-(12)~~ "Local law special fire control district" is any
 268 special fire control district in which ~~there exists~~ a local law
 269 plan exists.

270 ~~(17)~~ "Long-term funded ratio" or "funded ratio" means the
 271 ratio of the actuarial value of assets of the plan to the
 272 actuarial accrued liabilities of the plan, as reported in the
 273 most recent actuarial valuation of the plan, deemed to be in
 274 compliance with chapter 112 by the Department of Management
 275 Services.

276 ~~(18)-(13)~~ "Property insurance" means property insurance as
 277 defined in s. 624.604 and covers real and personal property
 278 within the corporate limits of a any municipality, or within the
 279 boundaries of a any special fire control district, within the
 280 state. "Multiple peril" means a combination or package policy

281 that includes both property and casualty coverage for a single
 282 premium.

283 (19)~~(14)~~ "Retiree" or "retired firefighter" means a
 284 firefighter who has entered retirement status. For the purposes
 285 of a plan that includes a Deferred Retirement Option Plan
 286 (DROP), a firefighter who enters the DROP is ~~shall be~~ considered
 287 a retiree for all purposes of the plan. However, a firefighter
 288 who enters ~~the~~ DROP and who is otherwise eligible to participate
 289 may ~~shall~~ not ~~thereby~~ be precluded from participating, or
 290 continuing to participate, in a supplemental plan in existence
 291 on, or created after, March 12, 1999 ~~the effective date of this~~
 292 ~~act~~.

293 (20)~~(15)~~ "Retirement" means a firefighter's separation
 294 from city or fire district employment as a firefighter with
 295 immediate eligibility for ~~receipt of~~ benefits under the plan.
 296 For purposes of a plan that includes a Deferred Retirement
 297 Option Plan (DROP), "retirement" means the date a firefighter
 298 enters ~~the~~ DROP.

299 (21) "Special benefits" means benefits provided in a
 300 defined contribution plan for firefighters.

301 (22)~~(16)~~ "Special fire control district" means a special
 302 district, as defined in s. 189.403~~(1)~~, established for the
 303 purposes of extinguishing fires, protecting life, and protecting
 304 property within the incorporated or unincorporated portions of a
 305 ~~any~~ county or combination of counties, or within any combination
 306 of incorporated and unincorporated portions of a ~~any~~ county or
 307 combination of counties. The term does not include any dependent
 308 or independent special district, as those terms are defined in

309 s. 189.403~~(2)~~ and ~~(3)~~, respectively, the employees of which are
 310 members of the Florida Retirement System pursuant to s.
 311 121.051(1) or (2).

312 (23)~~(17)~~ "Supplemental plan" means a plan to which
 313 deposits are made to provide extra benefits for firefighters, or
 314 for firefighters and police officers if both are ~~where~~ included,
 315 under this chapter. Such a plan is an element of a local law
 316 plan and exists in conjunction with a defined benefit component
 317 ~~plan~~ that meets the base ~~minimum~~ benefits and minimum standards
 318 of this chapter.

319 (24)~~(18)~~ "Supplemental plan municipality" means a ~~any~~
 320 local law municipality in which ~~there existed~~ a supplemental
 321 plan existed, of any type or nature, as of December 1, 2000.

322 Section 3. Paragraph (b) of subsection (7) of section
 323 175.071, Florida Statutes, is amended to read:

324 175.071 General powers and duties of board of trustees.—
 325 For any municipality, special fire control district, chapter
 326 plan, local law municipality, local law special fire control
 327 district, or local law plan under this chapter:

328 (7) To assist the board in meeting its responsibilities
 329 under this chapter, the board, if it so elects, may:

330 (b) Employ an independent enrolled actuary, as defined in
 331 s. 175.032~~(7)~~, at the pension fund's expense.

332
 333 If the board chooses to use the municipality's or special
 334 district's legal counsel or actuary, or chooses to use any of
 335 the municipality's or special district's other professional,
 336 technical, or other advisers, it must do so only under terms and

337 conditions acceptable to the board.

338 Section 4. Paragraphs (d) through (g) of subsection (1) of
 339 section 175.091, Florida Statutes, are amended, and a new
 340 paragraph (e) is added to that subsection, to read:

341 175.091 Creation and maintenance of fund.—For any
 342 municipality, special fire control district, chapter plan, local
 343 law municipality, local law special fire control district, or
 344 local law plan under this chapter:

345 (1) The firefighters' pension trust fund in each
 346 municipality and in each special fire control district shall be
 347 created and maintained in the following manner:

348 (d) By mandatory payment by the municipality or special
 349 fire control district of a sum equal to the normal cost of and
 350 the amount required to fund any actuarial deficiency shown by an
 351 actuarial valuation as provided in part VII of chapter 112 after
 352 taking into account the amounts described in paragraphs (b),
 353 (c), (f), (g), and (h) and the amounts of the tax proceeds
 354 described in paragraph (a) that must be used to fund defined
 355 benefit plan benefits, except as otherwise excluded from
 356 consideration in determining the mandatory payment.

357 (e) For local law plans, and in addition to the mandatory
 358 payment described in paragraph (d), by mandatory payment by the
 359 municipality or special fire control district of the amount
 360 specified in s. 175.351(3) if the long-term funded ratio of the
 361 plan is less than 80 percent.

362 ~~(f)(e)~~ By all gifts, bequests, and devises when donated to
 363 the fund.

364 ~~(g)(f)~~ By all accretions to the fund by way of interest or

365 dividends on bank deposits, or otherwise.

366 (h)~~(g)~~ By all other sources or income now or hereafter
 367 authorized by law for the augmentation of such firefighters'
 368 pension trust fund.

369
 370 Nothing in this section shall be construed to require adjustment
 371 of member contribution rates in effect on the date this act
 372 becomes a law, including rates that exceed 5 percent of salary,
 373 provided that such rates are at least one-half of 1 percent of
 374 salary.

375 Section 5. Section 175.351, Florida Statutes, is amended
 376 to read:

377 175.351 Municipalities and special fire control districts
 378 having their own pension plans for firefighters. ~~For any~~
 379 ~~municipality, special fire control district, local law~~
 380 ~~municipality, local law special fire control district, or local~~
 381 ~~law plan under this chapter,~~ In order for a municipality or
 382 ~~municipalities and special fire control district that has its~~
 383 ~~districts with their own pension plan plans for firefighters, or~~
 384 for firefighters and police officers if both are included, to
 385 participate in the distribution of the tax fund established
 386 under pursuant to s. 175.101, a local law plan and its plan
 387 sponsor plans must meet the base minimum benefits and minimum
 388 standards set forth in this chapter.

389 (1) If a municipality has a pension plan for firefighters,
 390 or a pension plan for firefighters and police officers if both
 391 are included, which in the opinion of the division meets the
 392 base minimum benefits and minimum standards set forth in this

393 chapter, the board of trustees of the pension plan, as approved
 394 by a majority of firefighters of the municipality, must ~~may~~
 395 ~~(a)~~ place the income from the premium tax in s. 175.101 in
 396 such ~~pension~~ plan for the sole and exclusive use of its
 397 firefighters, or for firefighters and police officers if both
 398 are included, where it shall become an integral part of that
 399 ~~pension~~ plan and ~~shall~~ be used to fund benefits for firefighters
 400 as follows:

401 (a) The base premium tax revenues must be used to fund
 402 base benefits.

403 (b) Of the premium tax revenues received that are in
 404 excess of the amount received for the 2012 calendar year, and
 405 any accumulations of additional premium tax revenues that have
 406 not been applied to fund extra benefits:

407 1. If the plan has a long-term funded ratio of less than
 408 80 percent:

409 a. Fifty percent must be used as additional contributions
 410 to pay the plan's actuarial deficiency and may not be considered
 411 in the determination of the mandatory payment described in s.
 412 175.091(1)(d);

413 b. Twenty-five percent must be used to fund base benefits;
 414 and

415 c. Twenty-five percent must be placed in a defined
 416 contribution plan to fund special benefits.

417 2. If the plan has a long-term funded ratio of 80 percent
 418 or greater:

419 a. Fifty percent must be used to fund base benefits; and
 420 b. Fifty percent must be placed in a defined contribution

421 plan to fund special benefits.

422 (c) Additional premium tax revenues not described in
 423 paragraph (b) must be used to fund benefits that were not
 424 included in the base benefits to pay extra benefits to the
 425 firefighters included in that pension plan; or

426 ~~(b) Place the income from the premium tax in s. 175.101 in~~
 427 ~~a separate supplemental plan to pay extra benefits to~~
 428 ~~firefighters, or to firefighters and police officers if~~
 429 ~~included, participating in such separate supplemental plan.~~

430 (2) Insurance premium tax revenues may not be used to fund
 431 benefits provided in a defined benefit plan which were not
 432 provided by the plan as of March 1, 2013.

433 (3) If a plan offers benefits in excess of its base
 434 benefits, such benefits may be reduced if the plan continues to
 435 meet the base benefits of the plan and the minimum standards set
 436 forth in this chapter. The amount of insurance premium tax
 437 revenues previously used to fund benefits in excess of the
 438 plan's base benefits before the reduction must be used as
 439 provided in subsection (1)(b). Twenty-five percent of the amount
 440 of any mandatory contribution paid by the municipality or
 441 special fire control district which was previously used to fund
 442 extra benefits before the reduction must be used as additional
 443 contributions as specified in s. 175.091 to fund the plan's
 444 actuarial deficiency.

445 ~~(4)(2)~~ The premium tax provided by this chapter shall in
 446 all cases be used in its entirety to provide retirement extra
 447 benefits to firefighters, or to firefighters and police officers
 448 if both are included. However, local law plans in effect on

449 ~~October 1, 1998, must comply with the minimum benefit provisions~~
 450 ~~of this chapter only to the extent that additional premium tax~~
 451 ~~revenues become available to incrementally fund the cost of such~~
 452 ~~compliance as provided in s. 175.162(2)(a). If a plan is in~~
 453 ~~compliance with such minimum benefit provisions, as subsequent~~
 454 ~~additional premium tax revenues become available, they must be~~
 455 ~~used to provide extra benefits. Local law plans created by~~
 456 ~~special act before May 27, 1939, are deemed to comply with this~~
 457 ~~chapter. For the purpose of this chapter, the term:~~

458 ~~(a) "Additional premium tax revenues" means revenues~~
 459 ~~received by a municipality or special fire control district~~
 460 ~~pursuant to s. 175.121 which exceed that amount received for~~
 461 ~~calendar year 1997.~~

462 ~~(b) "Extra benefits" means benefits in addition to or~~
 463 ~~greater than those provided to general employees of the~~
 464 ~~municipality and in addition to those in existence for~~
 465 ~~firefighters on March 12, 1999.~~

466 (5) ~~(3)~~ A retirement plan or amendment to a retirement plan
 467 may not be proposed for adoption unless the proposed plan or
 468 amendment contains an actuarial estimate of the costs involved.
 469 Such proposed plan or proposed plan change may not be adopted
 470 without the approval of the municipality, special fire control
 471 district, or, where permitted, the Legislature. Copies of the
 472 proposed plan or proposed plan change and the actuarial impact
 473 statement of the proposed plan or proposed plan change shall be
 474 furnished to the division before the last public hearing
 475 thereon. Such statement must also indicate whether the proposed
 476 plan or proposed plan change is in compliance with s. 14, Art. X

477 of the State Constitution and those provisions of part VII of
 478 chapter 112 which are not expressly provided in this chapter.
 479 Notwithstanding any other provision, only those local law plans
 480 created by special act of legislation before May 27, 1939, are
 481 deemed to meet the base ~~minimum~~ benefits and minimum standards
 482 only in this chapter.

483 ~~(6)(4)~~ Notwithstanding any other provision, with respect
 484 to any supplemental plan municipality:

485 (a) A local law plan and a supplemental plan may continue
 486 to use their definition of compensation or salary in existence
 487 on March 12, 1999.

488 (b) Section 175.061(1)(b) does not apply, and a local law
 489 plan and a supplemental plan shall continue to be administered
 490 by a board or boards of trustees numbered, constituted, and
 491 selected as the board or boards were numbered, constituted, and
 492 selected on December 1, 2000.

493 ~~(c) The election set forth in paragraph (1)(b) is deemed~~
 494 ~~to have been made.~~

495 ~~(7)(5)~~ The retirement plan setting forth the benefits and
 496 the trust agreement, if any, covering the duties and
 497 responsibilities of the trustees and the regulations of the
 498 investment of funds must be in writing, and copies made
 499 available to the participants and to the general public.

500 (8) In addition to the defined benefit component of the
 501 local law plan, each plan sponsor must have a defined
 502 contribution plan component within the local law plan by October
 503 1, 2013, or upon the creation date of a new participating plan.
 504 However, the plan sponsor of any plan established by special act

505 of the Legislature has until July 1, 2014, to create a defined
 506 contribution component within the plan.

507 Section 6. Subsection (2) of section 185.01, Florida
 508 Statutes, is amended to read:

509 185.01 Legislative declaration.—

510 (2) This chapter hereby establishes, for all municipal
 511 pension plans ~~new or hereinafter~~ provided for under this
 512 chapter, including chapter plans and local law plans, base
 513 ~~minimum~~ benefits and minimum standards for the operation and
 514 funding of such plans, which must be met as a condition
 515 precedent to the plan or plan sponsor receiving a distribution
 516 of insurance premium tax revenues under s. 185.10 hereinafter
 517 ~~referred to as municipal police officers' retirement trust~~
 518 ~~funds~~. The base minimum benefits and minimum standards for each
 519 plan as set forth in this chapter may not be diminished by local
 520 ordinance or by special act of the Legislature, or ~~nor may the~~
 521 ~~minimum benefits or minimum standards~~ be reduced or offset by
 522 any other local, state, or federal plan that may include police
 523 officers in its operation, except as provided under s. 112.65.

524 Section 7. Section 185.02, Florida Statutes, is amended to
 525 read:

526 185.02 Definitions.—For any municipality, chapter plan,
 527 local law municipality, or local law plan under this chapter,
 528 the term ~~following words and phrases as used in this chapter~~
 529 ~~shall have the following meanings, unless a different meaning is~~
 530 ~~plainly required by the context:~~

531 (1) "Additional premium tax revenues" means revenues
 532 received by a municipality pursuant to s. 185.10 which exceed

533 | base premium tax revenues.

534 | ~~(2)-(1)~~ "Average final compensation" means one-twelfth of
 535 | the average annual compensation of the 5 best years of the last
 536 | 10 years of creditable service prior to retirement, termination,
 537 | or death.

538 | (3) "Base benefits" means the level of benefits in
 539 | existence for police officers on March 12, 1999.

540 | (4) "Base premium tax revenues" means revenues received by
 541 | a municipality pursuant to s. 185.10 equal to the amount of such
 542 | revenues received for calendar year 1997.

543 | ~~(5)-(2)~~ "Casualty insurance" means automobile public
 544 | liability and property damage insurance to be applied at the
 545 | place of residence of the owner, or if the subject is a
 546 | commercial vehicle, to be applied at the place of business of
 547 | the owner; automobile collision insurance; fidelity bonds;
 548 | burglary and theft insurance; and plate glass insurance.

549 | "Multiple peril" means a combination or package policy that
 550 | includes both property coverage and casualty coverage for a
 551 | single premium.

552 | ~~(6)-(3)~~ "Chapter plan" means a separate defined benefit
 553 | pension plan for police officers which incorporates by reference
 554 | the provisions of this chapter and has been adopted by the
 555 | governing body of a municipality as provided in s. 185.08.
 556 | Except as may be specifically authorized in this chapter, the
 557 | provisions of a chapter plan may not differ from the plan
 558 | provisions set forth in ss. 185.01-185.341 and 185.37-185.39.
 559 | Actuarial valuations of chapter plans shall be conducted by the
 560 | division as provided by s. 185.221(1)(b).

561 (7)~~(4)~~ "Compensation" or "salary" means, for
 562 noncollectively bargained service earned before July 1, 2011, or
 563 for service earned under collective bargaining agreements in
 564 place before July 1, 2011, the total cash remuneration including
 565 "overtime" paid by the primary employer to a police officer for
 566 services rendered, but not including any payments for extra duty
 567 or special detail work performed on behalf of a second party
 568 employer. ~~A local law plan may limit the amount of overtime~~
 569 ~~payments which can be used for retirement benefit calculation~~
 570 ~~purposes; however, such overtime limit may not be less than 300~~
 571 ~~hours per officer per calendar year.~~ For noncollectively
 572 bargained service earned on or after July 1, 2011, or for
 573 service earned under collective bargaining agreements entered
 574 into on or after July 1, 2011, the term has the same meaning
 575 except that when calculating retirement benefits, up to 300
 576 hours per year in overtime compensation may be included as
 577 specified in the plan or collective bargaining agreement, but
 578 payments for accrued unused sick or annual leave may not be
 579 included.

580 (a) Any retirement trust fund or plan that meets the
 581 requirements of this chapter does not, solely by virtue of this
 582 subsection, reduce or diminish the monthly retirement income
 583 otherwise payable to each police officer covered by the
 584 retirement trust fund or plan.

585 (b) The member's compensation or salary contributed as
 586 employee-elective salary reductions or deferrals to any salary
 587 reduction, deferred compensation, or tax-sheltered annuity
 588 program authorized under the Internal Revenue Code shall be

589 deemed to be the compensation or salary the member would receive
 590 if he or she were not participating in such program and ~~shall be~~
 591 treated as compensation for retirement purposes under this
 592 chapter.

593 (c) For any person who first becomes a member in any plan
 594 year beginning on or after January 1, 1996, compensation for
 595 that plan year may not include any amounts in excess of the
 596 Internal Revenue Code s. 401(a)(17) limitation, as amended by
 597 the Omnibus Budget Reconciliation Act of 1993, which limitation
 598 of \$150,000 shall be adjusted as required by federal law for
 599 qualified government plans and ~~shall be~~ further adjusted for
 600 changes in the cost of living in the manner provided by Internal
 601 Revenue Code s. 401(a)(17)(B). For any person who first became a
 602 member before the first plan year beginning on or after January
 603 1, 1996, the limitation on compensation may not be less than the
 604 maximum compensation amount that was allowed to be taken into
 605 account under the plan ~~as~~ in effect on July 1, 1993, which
 606 limitation shall be adjusted for changes in the cost of living
 607 since 1989 in the manner provided by Internal Revenue Code s.
 608 401(a)(17)(1991).

609 (8)~~(5)~~ "Creditable service" or "credited service" means
 610 the aggregate number of years of service and fractional parts of
 611 years of service of any police officer, omitting intervening
 612 years and fractional parts of years when such police officer may
 613 not have been employed by the municipality subject to the
 614 following conditions:

615 (a) A ~~No~~ police officer may not ~~will~~ receive credit for
 616 years or fractional parts of years of service if he or she has

617 | withdrawn his or her contributions to the fund for those years
 618 | or fractional parts of years of service, unless the police
 619 | officer repays into the fund the amount he or she has withdrawn,
 620 | plus interest as determined by the board. The member shall have
 621 | at least 90 days after his or her reemployment to make
 622 | repayment.

623 | (b) A police officer may voluntarily leave his or her
 624 | contributions in the fund for ~~a period of~~ 5 years after leaving
 625 | the employ of the police department, pending the possibility of
 626 | his or her being rehired by the same department, without losing
 627 | credit for the time he or she has participated actively as a
 628 | police officer. If he or she is not reemployed as a police
 629 | officer with the same department within 5 years, his or her
 630 | contributions shall be returned to him or her without interest.

631 | (c) Credited service under this chapter shall be provided
 632 | only for service as a police officer, ~~as defined in subsection~~
 633 | ~~(11)~~, or for military service and may not include credit for any
 634 | other type of service. A municipality ~~may~~, by local ordinance,
 635 | may provide for the purchase of credit for military service
 636 | occurring before employment as well as prior service as a police
 637 | officer for some other employer as long as the police officer is
 638 | not entitled to receive a benefit for such ~~other~~ prior service
 639 | ~~as a police officer~~. For purposes of determining credit for
 640 | prior service, in addition to service as a police officer in
 641 | this state, credit may be given for federal, other state, or
 642 | county service as long as such service is recognized by the
 643 | Criminal Justice Standards and Training Commission within the
 644 | Department of Law Enforcement as provided under chapter 943 or

645 | the police officer provides proof to the board of trustees that
 646 | such service is equivalent to the service required to meet the
 647 | definition of a police officer under subsection (16) ~~(11)~~.

648 | (d) In determining the creditable service of a ~~any~~ police
 649 | officer, credit for up to 5 years of the time spent in the
 650 | military service of the Armed Forces of the United States shall
 651 | be added to the years of actual service, if:

652 | 1. The police officer is in the active employ of the
 653 | municipality before ~~prior to~~ such service and leaves a position,
 654 | other than a temporary position, for the purpose of voluntary or
 655 | involuntary service in the Armed Forces of the United States.

656 | 2. The police officer is entitled to reemployment under
 657 | ~~the provisions of~~ the Uniformed Services Employment and
 658 | Reemployment Rights Act.

659 | 3. The police officer returns to his or her employment as
 660 | a police officer of the municipality within 1 year after ~~from~~
 661 | the date of his or her release from such active service.

662 | (9) ~~(6)~~ "Deferred Retirement Option Plan" or "DROP" means a
 663 | local law plan retirement option in which a police officer may
 664 | elect to participate. A police officer may retire for all
 665 | purposes of the plan and defer receipt of retirement benefits
 666 | into a DROP account while continuing employment with his or her
 667 | employer. However, a police officer who enters the DROP and who
 668 | is otherwise eligible to participate may ~~shall~~ not ~~thereby~~ be
 669 | precluded from participating, or continuing to participate, in a
 670 | supplemental plan in existence on, or created after, March 12,
 671 | 1999 ~~the effective date of this act.~~

672 | (10) "Defined contribution plan" means the component of a

673 local law plan to which deposits are made to provide benefits
 674 for police officers, or for police officers and firefighters if
 675 both are included. Such component is an element of a local law
 676 plan and exists in conjunction with the defined benefit
 677 component that meets the base benefits and minimum standards of
 678 this chapter. The retirement benefits of the defined
 679 contribution plan shall be provided through individual member
 680 accounts, in accordance with the applicable provisions of the
 681 Internal Revenue Code and related regulations, and are limited
 682 to the contributions made into each member's account and the
 683 actual accumulated earnings, net of expenses, earned on the
 684 member's account.

685 (11)(7) "Division" means the Division of Retirement of the
 686 Department of Management Services.

687 (12)(8) "Enrolled actuary" means an actuary who is
 688 enrolled under Subtitle C of Title III of the Employee
 689 Retirement Income Security Act of 1974 and who is a member of
 690 the Society of Actuaries or the American Academy of Actuaries.

691 (13)(9) "Local law municipality" is any municipality in
 692 which ~~there exists~~ a local law plan exists.

693 (14)(10) "Local law plan" means a retirement defined
 694 benefit pension plan, which includes both a defined benefit plan
 695 component and a defined contribution plan component, for police
 696 officers, or for police officers and firefighters if both are
 697 ~~where~~ included, as described in s. 185.35, established by
 698 municipal ordinance or special act of the Legislature, which
 699 ~~enactment~~ sets forth all plan provisions. Local law plan
 700 provisions may vary from the provisions of this chapter if the

701 ~~base, provided that required minimum~~ benefits and minimum
 702 standards of this chapter are met. However, any such variance
 703 must shall provide a greater benefit for police officers.
 704 Actuarial valuations of local law plans shall be conducted by an
 705 enrolled actuary as provided in s. 185.221(2)(b).

706 (15) "Long-term funded ratio" or "funded ratio" means the
 707 ratio of the actuarial value of assets of the plan to the
 708 actuarial accrued liabilities of the plan, as reported in the
 709 most recent actuarial valuation of the plan, deemed to be in
 710 compliance with chapter 112 by the Department of Management
 711 Services.

712 (16)(11) "Police officer" means any person who is elected,
 713 appointed, or employed full time by a any municipality, who is
 714 certified or required to be certified as a law enforcement
 715 officer in compliance with s. 943.1395, who is vested with
 716 authority to bear arms and make arrests, and whose primary
 717 responsibility is the prevention and detection of crime or the
 718 enforcement of the penal, criminal, traffic, or highway laws of
 719 the state. The term ~~This definition~~ includes all certified
 720 supervisory and command personnel whose duties include, in whole
 721 or in part, the supervision, training, guidance, and management
 722 responsibilities of full-time law enforcement officers, part-
 723 time law enforcement officers, or auxiliary law enforcement
 724 officers, but does not include part-time law enforcement
 725 officers or auxiliary law enforcement officers as those terms
 726 ~~the same~~ are defined in s. 943.10(6) and (8), respectively. For
 727 the purposes of this chapter only, the term also includes
 728 ~~"police officer" also shall include~~ a public safety officer who

729 is responsible for performing both police and fire services. Any
 730 plan may provide that the police chief shall have the ~~an~~ option
 731 to participate, or not, in that plan.

732 (17)~~(12)~~ "Police Officers' Retirement Trust Fund" means a
 733 trust fund, by whatever name known, as provided under s. 185.03
 734 for the purpose of assisting municipalities in establishing and
 735 maintaining a retirement plan for police officers.

736 (18)~~(13)~~ "Retiree" or "retired police officer" means a
 737 police officer who has entered retirement status. For the
 738 purposes of a plan that includes a Deferred Retirement Option
 739 Plan (DROP), a police officer who enters ~~the~~ DROP is ~~shall be~~
 740 considered a retiree for all purposes of the plan. However, a
 741 police officer who enters the DROP and who is otherwise eligible
 742 to participate may ~~shall~~ not ~~thereby~~ be precluded from
 743 participating, or continuing to participate, in a supplemental
 744 plan in existence on, or created after, March 12, 1999 ~~the~~
 745 ~~effective date of this act.~~

746 (19)~~(14)~~ "Retirement" means a police officer's separation
 747 from city employment as a police officer with immediate
 748 eligibility for ~~receipt of~~ benefits under the plan. For purposes
 749 of a plan that includes a Deferred Retirement Option Plan
 750 (DROP), "retirement" means the date a police officer enters the
 751 DROP.

752 (20) "Special benefits" means benefits provided in a
 753 defined contribution plan for police officers.

754 (21)~~(15)~~ "Supplemental plan" means a plan to which
 755 deposits of the premium tax moneys as provided in s. 185.08 are
 756 made to provide extra benefits to police officers, or police

757 officers and firefighters if both are ~~where~~ included, under this
 758 chapter. Such a plan is an element of a local law plan and
 759 exists in conjunction with a defined benefit component ~~plan~~ that
 760 meets the base ~~minimum~~ benefits and minimum standards of this
 761 chapter.

762 ~~(22)(16)~~ "Supplemental plan municipality" means any local
 763 law municipality in which ~~there existed~~ a supplemental plan
 764 existed as of December 1, 2000.

765 Section 8. Paragraph (b) of subsection (6) of section
 766 185.06, Florida Statutes, is amended to read:

767 185.06 General powers and duties of board of trustees.—For
 768 any municipality, chapter plan, local law municipality, or local
 769 law plan under this chapter:

770 (6) To assist the board in meeting its responsibilities
 771 under this chapter, the board, if it so elects, may:

772 (b) Employ an independent enrolled actuary, as defined in
 773 s. 185.02~~(8)~~, at the pension fund's expense.

774
 775 If the board chooses to use the municipality's or special
 776 district's legal counsel or actuary, or chooses to use any of
 777 the municipality's other professional, technical, or other
 778 advisers, it must do so only under terms and conditions
 779 acceptable to the board.

780 Section 9. Paragraphs (d) through (g) of subsection (1) of
 781 section 185.07, Florida Statutes, are amended, and a new
 782 paragraph (e) is added to that subsection, to read:

783 185.07 Creation and maintenance of fund.—For any
 784 municipality, chapter plan, local law municipality, or local law

785 plan under this chapter:

786 (1) The municipal police officers' retirement trust fund
 787 in each municipality described in s. 185.03 shall be created and
 788 maintained in the following manner:

789 (d) By payment by the municipality or other sources of a
 790 sum equal to the normal cost and the amount required to fund any
 791 actuarial deficiency shown by an actuarial valuation as provided
 792 in part VII of chapter 112, after taking into account the
 793 amounts described in paragraphs (b), (c), (f), (g), and (h) and
 794 the amounts of the tax proceeds described in paragraph (a) that
 795 must be used to fund defined benefit plan benefits, except as
 796 otherwise excluded from consideration in determining the
 797 mandatory payment.

798 (e) For local law plans, and in addition to the mandatory
 799 payment described in paragraph (d), by mandatory payment by the
 800 municipality of the amount specified in s. 185.35(3) if the
 801 long-term funded ratio of the plan is less than 80 percent.

802 ~~(f)~~ By all gifts, bequests and devises when donated to
 803 the fund.

804 ~~(g)~~ By all accretions to the fund by way of interest or
 805 dividends on bank deposits or otherwise.

806 ~~(h)~~ By all other sources of income now or hereafter
 807 authorized by law for the augmentation of such municipal police
 808 officers' retirement trust fund.

809
 810 Nothing in this section shall be construed to require adjustment
 811 of member contribution rates in effect on the date this act
 812 becomes a law, including rates that exceed 5 percent of salary,

813 provided that such rates are at least one-half of 1 percent of
 814 salary.

815 Section 10. Section 185.35, Florida Statutes, is amended
 816 to read:

817 185.35 Municipalities having their own pension plans for
 818 police officers. ~~For any municipality, chapter plan, local law~~
 819 ~~municipality, or local law plan under this chapter,~~ In order for
 820 a municipality municipalities with its their own retirement plan
 821 ~~pension plans~~ for police officers, or for police officers and
 822 firefighters if both are included, to participate in the
 823 distribution of the tax fund established under ~~pursuant to~~ s.
 824 185.08, a local law plan and its plan sponsor plans must meet
 825 the base minimum benefits and minimum standards set forth in
 826 this chapter:

827 (1) If a municipality has a retirement ~~pension~~ plan for
 828 police officers, or for police officers and firefighters if both
 829 are included, which, in the opinion of the division, meets the
 830 base minimum benefits and minimum standards set forth in this
 831 chapter, the board of trustees of the pension plan, as approved
 832 by a majority of police officers of the municipality, must may+

833 ~~(a)~~ place the income from the premium tax in s. 185.08 in
 834 such ~~pension~~ plan for the sole and exclusive use of its police
 835 officers, or its police officers and firefighters if included,
 836 where it shall become an integral part of that ~~pension~~ plan and
 837 ~~shall~~ be used to fund benefits for police officers as follows:

838 (a) The base premium tax revenues must be used to fund
 839 base benefits.

840 (b) Of the premium tax revenues received that are in

841 excess of the amount received for the 2012 calendar year, and
 842 any accumulations of additional premium tax revenues that have
 843 not been applied to fund extra benefits:

844 1. If the plan has a long-term funded ratio of less than
 845 80 percent:

846 a. Fifty percent must be used as additional contributions
 847 to pay the plan's actuarial deficiency and may not be considered
 848 in the determination of the mandatory payment described in s.
 849 185.07(1)(d);

850 b. Twenty-five percent must be used to fund base benefits;
 851 and

852 c. Twenty-five percent must be placed in a defined
 853 contribution plan to fund special benefits.

854 2. If the plan has a long-term funded ratio of 80 percent
 855 or greater:

856 a. Fifty percent must be used to fund base benefits; and

857 b. Fifty percent must be placed in a defined contribution
 858 plan to fund special benefits.

859 (c) Additional premium tax revenues not described in
 860 paragraph (b) must be used to fund benefits that were not
 861 included in the base benefits ~~pay extra benefits to the police~~
 862 officers included in that pension plan; or

863 ~~(b) May place the income from the premium tax in s. 185.08~~
 864 ~~in a separate supplemental plan to pay extra benefits to the~~
 865 ~~police officers, or police officers and firefighters if~~
 866 ~~included, participating in such separate supplemental plan.~~

867 (2) Insurance premium tax revenues may not be used to fund
 868 benefits provided in a defined benefit plan which were not

869 provided by the plan as of March 1, 2013.

870 (3) If a plan offers benefits in excess of its base
 871 benefits, such benefits may be reduced if the plan continues to
 872 meet the base benefits of the plan and the minimum standards set
 873 forth in this chapter. The amount of insurance premium tax
 874 revenues previously used to fund benefits in excess of the
 875 plan's base benefits before the reduction must be used as
 876 provided in subsection (1)(b). Twenty-five percent of the amount
 877 of any mandatory contribution paid by the municipality or
 878 special fire control district which was previously used to fund
 879 extra benefits before the reduction must be used as additional
 880 contributions as specified in s. 185.07 to fund the plan's
 881 actuarial deficiency.

882 (4)(2) The premium tax provided by this chapter shall in
 883 all cases be used in its entirety to provide retirement ~~extra~~
 884 benefits to police officers, or to police officers and
 885 firefighters if both are included. ~~However, local law plans in~~
 886 ~~effect on October 1, 1998, must comply with the minimum benefit~~
 887 ~~provisions of this chapter only to the extent that additional~~
 888 ~~premium tax revenues become available to incrementally fund the~~
 889 ~~cost of such compliance as provided in s. 185.16(2). If a plan~~
 890 ~~is in compliance with such minimum benefit provisions, as~~
 891 ~~subsequent additional tax revenues become available, they shall~~
 892 ~~be used to provide extra benefits. Local law plans created by~~
 893 special act before May 27, 1939, shall be deemed to comply with
 894 this chapter. ~~For the purpose of this chapter, the term:~~

895 ~~(a) "Additional premium tax revenues" means revenues~~
 896 ~~received by a municipality pursuant to s. 185.10 which exceed~~

897 | ~~the amount received for calendar year 1997.~~

898 | ~~(b) "Extra benefits" means benefits in addition to or~~
 899 | ~~greater than those provided to general employees of the~~
 900 | ~~municipality and in addition to those in existence for police~~
 901 | ~~officers on March 12, 1999.~~

902 | (5)~~(3)~~ A retirement plan or amendment to a retirement plan
 903 | may not be proposed for adoption unless the proposed plan or
 904 | amendment contains an actuarial estimate of the costs involved.
 905 | Such proposed plan or proposed plan change may not be adopted
 906 | without the approval of the municipality or, where permitted,
 907 | the Legislature. Copies of the proposed plan or proposed plan
 908 | change and the actuarial impact statement of the proposed plan
 909 | or proposed plan change shall be furnished to the division
 910 | before the last public hearing thereon. Such statement must also
 911 | indicate whether the proposed plan or proposed plan change is in
 912 | compliance with s. 14, Art. X of the State Constitution and
 913 | those provisions of part VII of chapter 112 which are not
 914 | expressly provided in this chapter. Notwithstanding any other
 915 | provision, only those local law plans created by special act of
 916 | legislation before May 27, 1939, are deemed to meet the base
 917 | ~~minimum~~ benefits and minimum standards only in this chapter.

918 | (6)~~(4)~~ Notwithstanding any other provision, with respect
 919 | to any supplemental plan municipality:

920 | (a) Section 185.02(7)(a) ~~185.02(4)(a)~~ does not apply, and
 921 | a local law plan and a supplemental plan may continue to use
 922 | their definition of compensation or salary in existence on March
 923 | 12, 1999.

924 | (b) A local law plan and a supplemental plan must continue

925 to be administered by a board or boards of trustees numbered,
 926 constituted, and selected as the board or boards were numbered,
 927 constituted, and selected on December 1, 2000.

928 ~~(c) The election set forth in paragraph (1)(b) is deemed~~
 929 ~~to have been made.~~

930 (7)(5) The retirement plan setting forth the benefits and
 931 the trust agreement, if any, covering the duties and
 932 responsibilities of the trustees and the regulations of the
 933 investment of funds must be in writing and copies made available
 934 to the participants and to the general public.

935 (8) In addition to the defined benefit component of the
 936 local law plan, each plan sponsor must have a defined
 937 contribution plan component within the local law plan by October
 938 1, 2013, or upon the creation date of a new participating plan.
 939 However, the plan sponsor of any plan established by special act
 940 of the Legislature has until July 1, 2014, to create a defined
 941 contribution component within the plan.

942 Section 11. The Legislature finds that a proper and
 943 legitimate state purpose is served when employees and retirees
 944 of the state and its political subdivisions, and the dependents,
 945 survivors, and beneficiaries of such employees and retirees, are
 946 extended the basic protections afforded by governmental
 947 retirement systems that provide fair and adequate benefits and
 948 that are managed, administered, and funded in an actuarially
 949 sound manner as required by s. 14, Article X of the State
 950 Constitution and part VII of chapter 112, Florida Statutes.
 951 Therefore, the Legislature determines and declares that this act
 952 fulfills an important state interest.

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2013

953

Section 12. This act shall take effect July 1, 2013.



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER

1 Committee/Subcommittee hearing bill: Government Operations
2 Subcommittee

3 Representative Rooney offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (2) of section 175.021, Florida
8 Statutes, is amended to read:

9 175.021 Legislative declaration.—

10 (2) This chapter hereby establishes, for all municipal and
11 special district pension plans existing ~~now or hereafter~~ under
12 this chapter, including chapter plans and local law plans,
13 required minimum benefits and minimum standards for the
14 operation and funding of such plans, hereinafter referred to as
15 firefighters' pension trust funds, which must be met as a
16 condition precedent to the plan or plan sponsor receiving a
17 distribution of insurance premium tax revenues under s. 175.121.
18 The required minimum benefits and minimum standards for each
19 plan as set forth in this chapter may not be diminished by local



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20 charter, ordinance, or resolution or by special act of the
21 Legislature, ~~or nor may the minimum benefits or minimum~~
22 ~~standards~~ be reduced or offset by any other local, state, or
23 federal law that may include firefighters in its operation,
24 except as provided under s. 112.65.

25 Section 2. Section 175.032, Florida Statutes, is amended
26 to read:

27 175.032 Definitions.—For any municipality, special fire
28 control district, chapter plan, local law municipality, local
29 law special fire control district, or local law plan under this
30 chapter, the term following words and phrases have the following
31 meanings:

32 (1) "Additional premium tax revenues" means revenues
33 received by a municipality or special fire control district
34 pursuant to s. 175.121 which exceed base premium tax revenues.

35 (2) ~~(1)(a)~~ "Average final compensation" for:

36 (a) A full-time firefighter means one-twelfth of the
37 average annual compensation of the 5 best years of the last 10
38 years of creditable service before ~~prior to~~ retirement,
39 termination, or death, or the career average as a full-time
40 firefighter since July 1, 1953, whichever is greater. A year is
41 ~~shall be~~ 12 consecutive months or such other consecutive period
42 of time as is used and consistently applied.

43 (b) ~~"Average final compensation" for~~ A volunteer
44 firefighter means the average salary of the 5 best years of the
45 last 10 best contributing years before a ~~prior to~~ change in
46 status to a permanent full-time firefighter or retirement as a
47 volunteer firefighter or the career average of a volunteer



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48 firefighter, since July 1, 1953, whichever is greater.

49 (3) "Base benefits" means the level of benefits in
50 existence for firefighters on March 12, 1999.

51 (4) "Base premium tax revenues" means revenues received by
52 a municipality or special fire control district pursuant to s.
53 175.121 equal to the amount of such revenues received for
54 calendar year 1997.

55 (5)-(2) "Chapter plan" means a separate defined benefit
56 pension plan for firefighters which incorporates by reference
57 the provisions of this chapter and has been adopted by the
58 governing body of a municipality or special district. Except as
59 may be specifically authorized in this chapter, the provisions
60 of a chapter plan may not differ from the plan provisions set
61 forth in ss. 175.021-175.341 and 175.361-175.401. Actuarial
62 valuations of chapter plans shall be conducted by the division
63 as provided by s. 175.261(1).

64 (6)-(3) "Compensation" or "salary" means, for
65 noncollectively bargained service earned before July 1, 2011, or
66 for service earned under collective bargaining agreements in
67 place before July 1, 2011, the fixed monthly remuneration paid a
68 firefighter. If remuneration is based on actual services
69 rendered, as in the case of a volunteer firefighter, the term
70 means the total cash remuneration received yearly for such
71 services, prorated on a monthly basis. For noncollectively
72 bargained service earned on or after July 1, 2011, or for
73 service earned under collective bargaining agreements entered
74 into on or after July 1, 2011, the term has the same meaning
75 except that when calculating retirement benefits, up to 300



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76 hours per year in overtime compensation may be included as
77 specified in the plan or collective bargaining agreement, but
78 payments for accrued unused sick or annual leave may not be
79 included.

80 (a) Any retirement trust fund or plan that meets the
81 requirements of this chapter does not, solely by virtue of this
82 subsection, reduce or diminish the monthly retirement income
83 otherwise payable to each firefighter covered by the retirement
84 trust fund or plan.

85 (b) The member's compensation or salary contributed as
86 employee-elective salary reductions or deferrals to any salary
87 reduction, deferred compensation, or tax-sheltered annuity
88 program authorized under the Internal Revenue Code shall be
89 deemed to be the compensation or salary the member would receive
90 if he or she were not participating in such program and ~~shall be~~
91 treated as compensation for retirement purposes under this
92 chapter.

93 (c) For any person who first becomes a member in any plan
94 year beginning on or after January 1, 1996, compensation for
95 that plan year may not include any amounts in excess of the
96 Internal Revenue Code s. 401(a)(17) limitation, as amended by
97 the Omnibus Budget Reconciliation Act of 1993, which limitation
98 of \$150,000 shall be adjusted as required by federal law for
99 qualified government plans and ~~shall be~~ further adjusted for
100 changes in the cost of living in the manner provided by Internal
101 Revenue Code s. 401(a)(17)(B). For any person who first became a
102 member before the first plan year beginning on or after January
103 1, 1996, the limitation on compensation may not be less than the



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104 maximum compensation amount that was allowed to be taken into
105 account under the plan in effect on July 1, 1993, which
106 limitation shall be adjusted for changes in the cost of living
107 since 1989 in the manner provided by Internal Revenue Code s.
108 401(a)(17)(1991).

109 ~~(7)~~(4) "Creditable service" or "credited service" means
110 the aggregate number of years of service, and fractional parts
111 of years of service, of any firefighter, omitting intervening
112 years and fractional parts of years when such firefighter may
113 not have been employed by the municipality or special fire
114 control district, subject to the following conditions:

115 (a) A ~~No~~ firefighter may not ~~will~~ receive credit for years
116 or fractional parts of years of service if he or she has
117 withdrawn his or her contributions to the fund for those years
118 or fractional parts of years of service, unless the firefighter
119 repays into the fund the amount he or she has withdrawn, plus
120 interest determined by the board. The member shall have at least
121 90 days after his or her reemployment to make repayment.

122 (b) A firefighter may voluntarily leave his or her
123 contributions in the fund for ~~a period of~~ 5 years after leaving
124 the employ of the fire department, pending the possibility of
125 being rehired by the same department, without losing credit for
126 the time he or she has participated actively as a firefighter.
127 If the firefighter is not reemployed as a firefighter, with the
128 same department, within 5 years, his or her contributions shall
129 be returned without interest.

130 (c) Credited service under this chapter shall be provided
131 only for service as a firefighter, ~~as defined in subsection (8),~~



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132 or for military service and does not include credit for any
133 other type of service. A municipality ~~may~~, by local ordinance,
134 or a special fire control district ~~may~~, by resolution, may
135 provide for the purchase of credit for military service prior to
136 employment as well as for prior service as a firefighter for
137 some other employer as long as a firefighter is not entitled to
138 receive a benefit for such prior service ~~as a firefighter~~. For
139 purposes of determining credit for prior service as a
140 firefighter, in addition to service as a firefighter in this
141 state, credit may be given for federal, other state, or county
142 service if the prior service is recognized by the Division of
143 State Fire Marshal as provided under chapter 633, or the
144 firefighter provides proof to the board of trustees that his or
145 her service is equivalent to the service required to meet the
146 definition of a firefighter under subsection (12) ~~(8)~~.

147 (8) ~~(5)~~ "Deferred Retirement Option Plan" or "DROP" means a
148 local law plan retirement option in which a firefighter may
149 elect to participate. A firefighter may retire for all purposes
150 of the plan and defer receipt of retirement benefits into a DROP
151 account while continuing employment with his or her employer.
152 However, a firefighter who enters ~~the~~ DROP and who is otherwise
153 eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from
154 participating, or continuing to participate, in a supplemental
155 plan in existence on, or created after, March 12, 1999 ~~the~~
156 ~~effective date of this act.~~

157 (9) "Defined contribution plan" means the component of a
158 local law plan to which deposits are made to provide benefits
159 for firefighters, or for firefighters and police officers if



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160 both are included. Such component is an element of a local law
161 plan and exists in conjunction with the defined benefit
162 component that meets the required benefits and minimum standards
163 of this chapter. The retirement benefits of the defined
164 contribution plan shall be provided through individual member
165 accounts, in accordance with the applicable provisions of the
166 Internal Revenue Code and related regulations, and are limited
167 to the contributions made into each member's account and the
168 actual accumulated earnings, net of expenses, earned on the
169 member's account.

170 ~~(10)(6)~~ "Division" means the Division of Retirement of the
171 Department of Management Services.

172 ~~(11)(7)~~ "Enrolled actuary" means an actuary who is
173 enrolled under Subtitle C of Title III of the Employee
174 Retirement Income Security Act of 1974 and who is a member of
175 the Society of Actuaries or the American Academy of Actuaries.

176 ~~(12)(8)(a)~~ "Firefighter" means any person employed solely
177 by a constituted fire department of any municipality or special
178 fire control district who is certified as a firefighter as a
179 condition of employment in accordance with s. 633.35 and whose
180 duty it is to extinguish fires, to protect life, or to protect
181 property. The term includes all certified, supervisory, and
182 command personnel whose duties include, in whole or in part, the
183 supervision, training, guidance, and management responsibilities
184 of full-time firefighters, part-time firefighters, or auxiliary
185 firefighters but does not include part-time firefighters or
186 auxiliary firefighters. However, for purposes of this chapter
187 only, the term also includes public safety officers who are



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188 responsible for performing both police and fire services, who
189 are certified as police officers or firefighters, and who are
190 certified by their employers to the Chief Financial Officer as
191 participating in this chapter before October 1, 1979. Effective
192 October 1, 1979, public safety officers who have not been
193 certified as participating in this chapter are considered police
194 officers for retirement purposes and are eligible to participate
195 in chapter 185. Any plan may provide that the fire chief has an
196 option to participate, ~~or not,~~ in that plan.

197 (b) "Volunteer firefighter" means any person whose name is
198 carried on the active membership roll of a constituted volunteer
199 fire department or a combination of a paid and volunteer fire
200 department of any municipality or special fire control district
201 and whose duty it is to extinguish fires, to protect life, and
202 to protect property. Compensation for services rendered by a
203 volunteer firefighter does ~~shall~~ not disqualify him or her as a
204 volunteer. A person may ~~shall~~ not be disqualified as a volunteer
205 firefighter solely because he or she has other gainful
206 employment. Any person who volunteers assistance at a fire but
207 is not an active member of a department described herein is not
208 a volunteer firefighter within the meaning of this paragraph.

209 (13) ~~(9)~~ "Firefighters' Pension Trust Fund" means a trust
210 fund, by whatever name known, as provided under s. 175.041, for
211 the purpose of assisting municipalities and special fire control
212 districts in establishing and maintaining a retirement plan for
213 firefighters.

214 (14) ~~(10)~~ "Local law municipality" is any municipality in
215 which ~~there exists~~ a local law plan exists.



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216 (15)~~(11)~~ "Local law plan" means a retirement defined
217 benefit pension plan, which includes both a defined benefit plan
218 component and a defined contribution plan component, for
219 firefighters, or for firefighters or police officers if both are
220 where included, as described in s. 175.351, established by
221 municipal ordinance, special district resolution, or special act
222 of the Legislature, which enactment sets forth all plan
223 provisions. Local law plan provisions may vary from the
224 provisions of this chapter if the, provided that required
225 minimum benefits and minimum standards of this chapter are met.
226 However, any such variance must shall provide a greater benefit
227 for firefighters. Actuarial valuations of local law plans shall
228 be conducted by an enrolled actuary as provided in s.
229 175.261(2).

230 (16)~~(12)~~ "Local law special fire control district" is any
231 special fire control district in which ~~there exists~~ a local law
232 plan exists.

233 (17) "Long-term funded ratio" or "funded ratio" means the
234 ratio of the actuarial value of assets of the plan to the
235 actuarial accrued liabilities of the plan, as reported in the
236 most recent actuarial valuation of the plan, deemed to be in
237 compliance with chapter 112 by the Department of Management
238 Services.

239 (18) "Minimum benefits" means the benefits set forth in
240 ss. 175.021-175.341 and ss. 175.361-175.401.

241 (19) "Minimum standards" means the standards set forth in
242 ss. 175.021-175.341 and ss. 175.361-175.401.

243 (20)~~(13)~~ "Property insurance" means property insurance as



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244 defined in s. 624.604 and covers real and personal property
245 within the corporate limits of a ~~any~~ municipality, or within the
246 boundaries of a ~~any~~ special fire control district, within the
247 state. "Multiple peril" means a combination or package policy
248 that includes both property and casualty coverage for a single
249 premium.

250 (21) "Required benefits" means the lesser of the minimum
251 benefits set forth in this chapter and the base benefits of the
252 plan. For local law plans created after March 1, 2013, the
253 required benefits are the minimum benefits set forth in this
254 chapter.

255 (22)~~(14)~~ "Retiree" or "retired firefighter" means a
256 firefighter who has entered retirement status. For the purposes
257 of a plan that includes a Deferred Retirement Option Plan
258 (DROP), a firefighter who enters ~~the~~ DROP is ~~shall be~~ considered
259 a retiree for all purposes of the plan. However, a firefighter
260 who enters ~~the~~ DROP and who is otherwise eligible to participate
261 may ~~shall~~ not ~~thereby~~ be precluded from participating, or
262 continuing to participate, in a supplemental plan in existence
263 on, or created after, March 12, 1999 ~~the effective date of this~~
264 ~~act.~~

265 (23)~~(15)~~ "Retirement" means a firefighter's separation
266 from city or fire district employment as a firefighter with
267 immediate eligibility for ~~receipt of~~ benefits under the plan.
268 For purposes of a plan that includes a Deferred Retirement
269 Option Plan (DROP), "retirement" means the date a firefighter
270 enters ~~the~~ DROP.

271 (24) "Special benefits" means benefits provided in a



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272 defined contribution plan for firefighters.

273 ~~(25)-(16)~~ "Special fire control district" means a special
274 district, as defined in s. 189.403~~(1)~~, established for the
275 purposes of extinguishing fires, protecting life, and protecting
276 property within the incorporated or unincorporated portions of a
277 ~~any~~ county or combination of counties, or within any combination
278 of incorporated and unincorporated portions of a any county or
279 combination of counties. The term does not include any dependent
280 or independent special district, as those terms are defined in
281 s. 189.403~~(2) and (3)~~, respectively, the employees of which are
282 members of the Florida Retirement System pursuant to s.
283 121.051(1) or (2).

284 ~~(26)-(17)~~ "Supplemental plan" means a plan to which
285 deposits are made to provide extra benefits for firefighters, or
286 for firefighters and police officers if both are ~~where~~ included
287 ~~under this chapter~~. Such a plan is an element of a local law
288 plan and exists in conjunction with a defined benefit component
289 ~~plan~~ that meets the required ~~minimum~~ benefits and minimum
290 standards of this chapter. Any supplemental plan in existence on
291 March 1, 2013, shall be deemed to be a defined contribution plan
292 in compliance with s. 175.351(8).

293 ~~(27)-(18)~~ "Supplemental plan municipality" means a any
294 local law municipality in which ~~there existed~~ a supplemental
295 plan existed, of any type or nature, as of December 1, 2000.

296 Section 3. Paragraph (b) of subsection (7) of section
297 175.071, Florida Statutes, is amended to read:

298 175.071 General powers and duties of board of trustees.-
299 For any municipality, special fire control district, chapter



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300 plan, local law municipality, local law special fire control
301 district, or local law plan under this chapter:

302 (7) To assist the board in meeting its responsibilities
303 under this chapter, the board, if it so elects, may:

304 (b) Employ an independent enrolled actuary, as defined in
305 s. 175.032~~(7)~~, at the pension fund's expense.

306

307 If the board chooses to use the municipality's or special
308 district's legal counsel or actuary, or chooses to use any of
309 the municipality's or special district's other professional,
310 technical, or other advisers, it must do so only under terms and
311 conditions acceptable to the board.

312 Section 4. Paragraphs (d) through (g) of subsection (1) of
313 section 175.091, Florida Statutes, are amended, and a new
314 paragraph (e) is added to that subsection, to read:

315 175.091 Creation and maintenance of fund.—For any
316 municipality, special fire control district, chapter plan, local
317 law municipality, local law special fire control district, or
318 local law plan under this chapter:

319 (1) The firefighters' pension trust fund in each
320 municipality and in each special fire control district shall be
321 created and maintained in the following manner:

322 (d) By mandatory payment by the municipality or special
323 fire control district of a sum equal to the normal cost of and
324 the amount required to fund any actuarial deficiency shown by an
325 actuarial valuation as provided in part VII of chapter 112 after
326 taking into account the amounts described in paragraphs (b),
327 (c), (f), (g), and (h) and the amounts of the tax proceeds



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328 described in paragraph (a) which must be used to fund defined
329 benefit plan benefits, except as otherwise excluded from
330 consideration in determining the mandatory payment.

331 (e) For local law plans, and in addition to the mandatory
332 payment specified in paragraph (d), by mandatory payment by the
333 municipality or special fire control district of the amount
334 specified in s. 175.351(3), if the long-term funded ratio of the
335 plan is less than 80 percent.

336 (f)-(e) By all gifts, bequests, and devises when donated to
337 the fund.

338 (g)-(f) By all accretions to the fund by way of interest or
339 dividends on bank deposits, or otherwise.

340 (h)-(g) By all other sources or income now or hereafter
341 authorized by law for the augmentation of such firefighters'
342 pension trust fund.

343

344 Nothing in this section shall be construed to require adjustment
345 of member contribution rates in effect on the date this act
346 becomes a law, including rates that exceed 5 percent of salary,
347 provided that such rates are at least one-half of 1 percent of
348 salary.

349 Section 5. Paragraph (a) of subsection (2) of section
350 175.162, Florida Statutes, is amended to read:

351 175.162 Requirements for retirement.—For any municipality,
352 special fire control district, chapter plan, local law
353 municipality, local law special fire control district, or local
354 law plan under this chapter, any firefighter who completes 10 or
355 more years of creditable service as a firefighter and attains



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356 age 55, or completes 25 years of creditable service as a
357 firefighter and attains age 52, and who for such minimum period
358 has been a member of the firefighters' pension trust fund
359 operating under a chapter plan or local law plan, is eligible
360 for normal retirement benefits. Normal retirement under the plan
361 is retirement from the service of the municipality or special
362 fire control district on or after the normal retirement date. In
363 such event, payment of retirement income will be governed by the
364 following provisions of this section:

365 (2) (a) The amount of monthly retirement income payable to
366 a full-time firefighter who retires on or after his or her
367 normal retirement date shall be an amount equal to the number of
368 his or her years of credited service multiplied by 2 percent of
369 his or her average final compensation as a full-time
370 firefighter. ~~However, if current state contributions pursuant to~~
371 ~~this chapter are not adequate to fund the additional benefits to~~
372 ~~meet the minimum requirements in this chapter, only such~~
373 ~~incremental increases shall be required as state moneys are~~
374 ~~adequate to provide. Such increments shall be provided as state~~
375 ~~moneys become available.~~

376 Section 6. Section 175.351, Florida Statutes, is amended
377 to read:

378 175.351 Municipalities and special fire control districts
379 that have having their own pension plans for firefighters. ~~For~~
380 ~~any municipality, special fire control district, local law~~
381 ~~municipality, local law special fire control district, or local~~
382 ~~law plan under this chapter, In order for a municipality or~~
383 ~~municipalities and special fire control district that has its~~



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384 ~~districts with their own pension plan plans~~ for firefighters, or
385 for firefighters and police officers if both are included, to
386 participate in the distribution of the tax fund established
387 under pursuant to s. 175.101, a local law plan and its plan
388 sponsor plans must meet the required minimum benefits and
389 minimum standards set forth in this chapter.

390 (1) If a municipality has a pension plan for firefighters,
391 or a ~~pension plan~~ for firefighters and police officers if both
392 are included, which in the opinion of the division meets the
393 required minimum benefits and minimum standards set forth in
394 this chapter, the board of trustees of the pension plan, must as
395 approved by a majority of firefighters of the municipality, may:

396 ~~(a)~~ place the income from the premium tax in s. 175.101 in
397 such ~~pension~~ plan for the sole and exclusive use of its
398 firefighters, or for firefighters and police officers if both
399 are included, where it shall become an integral part of that
400 ~~pension~~ plan and ~~shall~~ be used to fund benefits for firefighters
401 as follows:

402 (a) The base premium tax revenues must be used to fund
403 base benefits.

404 (b) Of the premium tax revenues received which are in
405 excess of the amount received for the 2012 calendar year, and
406 any accumulations of additional premium tax revenues that have
407 not been applied to fund extra benefits:

408 1. If the plan has a long-term funded ratio of less than
409 80 percent:

410 a. Fifty percent must be used as additional contributions
411 to pay the plan's actuarial deficiency and may not be considered



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412 in the determination of the mandatory payment described in s.

413 175.091(1)(d);

414 b. Twenty-five percent must be used to fund base benefits;

415 and

416 c. The remainder must be placed in a defined contribution

417 plan to fund special benefits.

418 2. If the plan has a long-term funded ratio of 80 percent

419 or greater:

420 a. Fifty percent must be used to fund base benefits; and

421 b. The remainder must be placed in a defined contribution

422 plan to fund special benefits.

423 (c) Additional premium tax revenues not described in

424 paragraph (b) must be used to fund benefits that were not

425 included in the base benefits to pay extra benefits to the

426 firefighters included in that pension plan; or

427 ~~(b) Place the income from the premium tax in s. 175.101 in~~

428 ~~a separate supplemental plan to pay extra benefits to~~

429 ~~firefighters, or to firefighters and police officers if~~

430 ~~included, participating in such separate supplemental plan.~~

431 (2) Insurance premium tax revenues may not be used to fund

432 benefits provided in a defined benefit plan which were not

433 provided by the plan as of March 1, 2013; however, for a local

434 law plan created after March 1, 2013, up to 50 percent of the

435 insurance premium tax revenues may be used to fund defined

436 benefit plan component benefits and the remainder used to fund

437 defined contribution plan component benefits.

438 (3) If a plan offers benefits in excess of its required

439 benefits, such benefits may be reduced if the plan continues to



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440 | meet the required benefits of the plan and the minimum standards
441 | set forth in this chapter. The amount of insurance premium tax
442 | revenues previously used to fund benefits in excess of the
443 | plan's required benefits before the reduction must be used as
444 | provided in subsection (1)(b). Twenty-five percent of the amount
445 | of any mandatory contribution paid by the municipality or
446 | special fire control district which was previously used to fund
447 | benefits above the level of required benefits provided before
448 | the reduction must be used as additional contributions as
449 | specified in s. 175.091 to fund the plan's actuarial deficiency.

450 | ~~(4)(2)~~ The premium tax provided by this chapter shall ~~in~~
451 | ~~all cases~~ be used in its entirety to provide retirement ~~extra~~
452 | ~~benefits to firefighters, or to firefighters and police officers~~
453 | ~~if both are included. However, local law plans in effect on~~
454 | ~~October 1, 1998, must comply with the minimum benefit provisions~~
455 | ~~of this chapter only to the extent that additional premium tax~~
456 | ~~revenues become available to incrementally fund the cost of such~~
457 | ~~compliance as provided in s. 175.162(2)(a). If a plan is in~~
458 | ~~compliance with such minimum benefit provisions, as subsequent~~
459 | ~~additional premium tax revenues become available, they must be~~
460 | ~~used to provide extra benefits.~~ Local law plans created by
461 | special act before May 27, 1939, are deemed to comply with this
462 | chapter. For the purpose of this chapter, the term:

463 | ~~(a)~~ ~~"Additional premium tax revenues"~~ means revenues
464 | ~~received by a municipality or special fire control district~~
465 | ~~pursuant to s. 175.121 which exceed that amount received for~~
466 | ~~calendar year 1997.~~

467 | ~~(b)~~ ~~"Extra benefits"~~ means ~~benefits in addition to or~~



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468 ~~greater than those provided to general employees of the~~
469 ~~municipality and in addition to those in existence for~~
470 ~~firefighters on March 12, 1999.~~

471 (5)-(3) A retirement plan or amendment to a retirement plan
472 may not be proposed for adoption unless the proposed plan or
473 amendment contains an actuarial estimate of the costs involved.
474 Such proposed plan or proposed plan change may not be adopted
475 without the approval of the municipality, special fire control
476 district, or, where permitted, the Legislature. Copies of the
477 proposed plan or proposed plan change and the actuarial impact
478 statement of the proposed plan or proposed plan change shall be
479 furnished to the division before the last public hearing
480 thereon. Such statement must also indicate whether the proposed
481 plan or proposed plan change is in compliance with s. 14, Art. X
482 of the State Constitution and those provisions of part VII of
483 chapter 112 which are not expressly provided in this chapter.
484 Notwithstanding any other provision, only those local law plans
485 created by special act of legislation before May 27, 1939, are
486 deemed to meet the minimum benefits and minimum standards only
487 in this chapter.

488 (6)-(4) Notwithstanding any other provision, with respect
489 to any supplemental plan municipality:

490 (a) A local law plan and a supplemental plan may continue
491 to use their definition of compensation or salary in existence
492 on March 12, 1999.

493 (b) Section 175.061(1)(b) does not apply, and a local law
494 plan and a supplemental plan shall continue to be administered
495 by a board or boards of trustees numbered, constituted, and



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496 selected as the board or boards were numbered, constituted, and
497 selected on December 1, 2000.

498 ~~(c) The election set forth in paragraph (1)(b) is deemed~~
499 ~~to have been made.~~

500 (7)(5) The retirement plan setting forth the benefits and
501 the trust agreement, if any, covering the duties and
502 responsibilities of the trustees and the regulations of the
503 investment of funds must be in writing, and copies made
504 available to the participants and to the general public.

505 (8) In addition to the defined benefit component of the
506 local law plan, each plan sponsor must have a defined
507 contribution plan component within the local law plan by October
508 1, 2013, or upon the creation date of a new participating plan.
509 However, the plan sponsor of any plan established by special act
510 of the Legislature has until July 1, 2014, to create a defined
511 contribution component within the plan.

512 (9) Notwithstanding any other provision of this chapter, a
513 municipality or special fire control district that has
514 implemented or proposed changes to a local law plan based on the
515 municipality's or district's reliance on an interpretation of
516 this chapter by the department on or after August 14, 2012, and
517 before February 1, 2013, may continue the implemented changes or
518 continue to implement proposed changes. Such reliance must be
519 evidenced by formal correspondence between the municipality or
520 district and the department which describes the specific changes
521 to the local law plan, with the initial correspondence from the
522 municipality or district dated prior to February 1, 2013. The
523 changes to the local law plan that are otherwise contrary to the



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524 provisions of this chapter may continue in effect until the
525 earlier of October 1, 2016, or the effective date of a
526 collective bargaining agreement that is contrary to the changes
527 to the local law plan.

528 Section 7. Subsection (2) of section 185.01, Florida
529 Statutes, is amended to read:

530 185.01 Legislative declaration.—

531 (2) This chapter hereby establishes, for all municipal
532 pension plans ~~now or hereinafter~~ provided for under this
533 chapter, including chapter plans and local law plans, required
534 ~~minimum~~ benefits and minimum standards for the operation and
535 funding of such plans, hereinafter referred to as municipal
536 police officers' retirement trust funds, which must be met as a
537 condition precedent to the plan or plan sponsor receiving a
538 distribution of insurance premium tax revenues under s. 185.10.
539 The required ~~minimum~~ benefits and minimum standards for each
540 plan as set forth in this chapter may not be diminished by local
541 ordinance or by special act of the Legislature, ~~or nor may the~~
542 ~~minimum benefits or minimum standards~~ be reduced or offset by
543 any other local, state, or federal plan that may include police
544 officers in its operation, except as provided under s. 112.65.

545 Section 8. Section 185.02, Florida Statutes, is amended to
546 read:

547 185.02 Definitions.—For any municipality, chapter plan,
548 local law municipality, or local law plan under this chapter,
549 the term ~~following words and phrases as used in this chapter~~
550 ~~shall have the following meanings, unless a different meaning is~~
551 ~~plainly required by the context:~~



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552 (1) "Additional premium tax revenues" means revenues
553 received by a municipality pursuant to s. 185.10 which exceed
554 base premium tax revenues.

555 ~~(2)~~ "Average final compensation" means one-twelfth of
556 the average annual compensation of the 5 best years of the last
557 10 years of creditable service prior to retirement, termination,
558 or death.

559 (3) "Base benefits" means the level of benefits in
560 existence for police officers on March 12, 1999.

561 (4) "Base premium tax revenues" means revenues received by
562 a municipality pursuant to s. 185.10 equal to the amount of such
563 revenues received for calendar year 1997.

564 ~~(5)~~ "Casualty insurance" means automobile public
565 liability and property damage insurance to be applied at the
566 place of residence of the owner, or if the subject is a
567 commercial vehicle, to be applied at the place of business of
568 the owner; automobile collision insurance; fidelity bonds;
569 burglary and theft insurance; and plate glass insurance.

570 "Multiple peril" means a combination or package policy that
571 includes both property coverage and casualty coverage for a
572 single premium.

573 ~~(6)~~ "Chapter plan" means a separate defined benefit
574 pension plan for police officers which incorporates by reference
575 the provisions of this chapter and has been adopted by the
576 governing body of a municipality as provided in s. 185.08.
577 Except as may be specifically authorized in this chapter, the
578 provisions of a chapter plan may not differ from the plan
579 provisions set forth in ss. 185.01-185.341 and 185.37-185.39.



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580 Actuarial valuations of chapter plans shall be conducted by the
581 division as provided by s. 185.221(1)(b).

582 ~~(7)(4)~~ "Compensation" or "salary" means, for
583 noncollectively bargained service earned before July 1, 2011, or
584 for service earned under collective bargaining agreements in
585 place before July 1, 2011, the total cash remuneration including
586 "overtime" paid by the primary employer to a police officer for
587 services rendered, but not including any payments for extra duty
588 or special detail work performed on behalf of a second party
589 employer. ~~A local law plan may limit the amount of overtime~~
590 ~~payments which can be used for retirement benefit calculation~~
591 ~~purposes; however, such overtime limit may not be less than 300~~
592 ~~hours per officer per calendar year.~~ For noncollectively
593 bargained service earned on or after July 1, 2011, or for
594 service earned under collective bargaining agreements entered
595 into on or after July 1, 2011, the term has the same meaning
596 except that when calculating retirement benefits, up to 300
597 hours per year in overtime compensation may be included as
598 specified in the plan or collective bargaining agreement, but
599 payments for accrued unused sick or annual leave may not be
600 included.

601 (a) Any retirement trust fund or plan that meets the
602 requirements of this chapter does not, solely by virtue of this
603 subsection, reduce or diminish the monthly retirement income
604 otherwise payable to each police officer covered by the
605 retirement trust fund or plan.

606 (b) The member's compensation or salary contributed as
607 employee-elective salary reductions or deferrals to any salary



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608 reduction, deferred compensation, or tax-sheltered annuity
609 program authorized under the Internal Revenue Code shall be
610 deemed to be the compensation or salary the member would receive
611 if he or she were not participating in such program and shall be
612 treated as compensation for retirement purposes under this
613 chapter.

614 (c) For any person who first becomes a member in any plan
615 year beginning on or after January 1, 1996, compensation for
616 that plan year may not include any amounts in excess of the
617 Internal Revenue Code s. 401(a)(17) limitation, as amended by
618 the Omnibus Budget Reconciliation Act of 1993, which limitation
619 of \$150,000 shall be adjusted as required by federal law for
620 qualified government plans and shall be further adjusted for
621 changes in the cost of living in the manner provided by Internal
622 Revenue Code s. 401(a)(17)(B). For any person who first became a
623 member before the first plan year beginning on or after January
624 1, 1996, the limitation on compensation may not be less than the
625 maximum compensation amount that was allowed to be taken into
626 account under the plan as in effect on July 1, 1993, which
627 limitation shall be adjusted for changes in the cost of living
628 since 1989 in the manner provided by Internal Revenue Code s.
629 401(a)(17)(1991).

630 ~~(8)~~(5) "Creditable service" or "credited service" means
631 the aggregate number of years of service and fractional parts of
632 years of service of any police officer, omitting intervening
633 years and fractional parts of years when such police officer may
634 not have been employed by the municipality subject to the
635 following conditions:



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636 (a) ~~A~~ ~~No~~ police officer may not ~~will~~ receive credit for
637 years or fractional parts of years of service if he or she has
638 withdrawn his or her contributions to the fund for those years
639 or fractional parts of years of service, unless the police
640 officer repays into the fund the amount he or she has withdrawn,
641 plus interest as determined by the board. The member has ~~shall~~
642 ~~have~~ at least 90 days after his or her reemployment to make
643 repayment.

644 (b) A police officer may voluntarily leave his or her
645 contributions in the fund for ~~a period of~~ 5 years after leaving
646 the employ of the police department, pending the possibility of
647 his or her being rehired by the same department, without losing
648 credit for the time he or she has participated actively as a
649 police officer. If he or she is not reemployed as a police
650 officer with the same department within 5 years, his or her
651 contributions shall be returned to him or her without interest.

652 (c) Credited service under this chapter shall be provided
653 only for service as a police officer, ~~as defined in subsection~~
654 ~~(11)~~, or for military service and may not include credit for any
655 other type of service. A municipality ~~may~~, by local ordinance,
656 may provide for the purchase of credit for military service
657 occurring before employment as well as prior service as a police
658 officer for some other employer as long as the police officer is
659 not entitled to receive a benefit for such ~~other~~ prior service
660 ~~as a police officer~~. For purposes of determining credit for
661 prior service, in addition to service as a police officer in
662 this state, credit may be given for federal, other state, or
663 county service as long as such service is recognized by the



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664 Criminal Justice Standards and Training Commission within the
665 Department of Law Enforcement as provided under chapter 943 or
666 the police officer provides proof to the board of trustees that
667 such service is equivalent to the service required to meet the
668 definition of a police officer under subsection (16) ~~(11)~~.

669 (d) In determining the creditable service of a ~~any~~ police
670 officer, credit for up to 5 years of the time spent in the
671 military service of the Armed Forces of the United States shall
672 be added to the years of actual service, if:

673 1. The police officer is in the active employ of the
674 municipality before ~~prior to~~ such service and leaves a position,
675 other than a temporary position, for the purpose of voluntary or
676 involuntary service in the Armed Forces of the United States.

677 2. The police officer is entitled to reemployment under
678 ~~the provisions of~~ the Uniformed Services Employment and
679 Reemployment Rights Act.

680 3. The police officer returns to his or her employment as
681 a police officer of the municipality within 1 year after ~~from~~
682 the date of his or her release from such active service.

683 (9) ~~(6)~~ "Deferred Retirement Option Plan" or "DROP" means a
684 local law plan retirement option in which a police officer may
685 elect to participate. A police officer may retire for all
686 purposes of the plan and defer receipt of retirement benefits
687 into a DROP account while continuing employment with his or her
688 employer. However, a police officer who enters the DROP and who
689 is otherwise eligible to participate may ~~shall~~ not ~~thereby~~ be
690 precluded from participating, or continuing to participate, in a
691 supplemental plan in existence on, or created after, March 12,



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692 ~~1999 the effective date of this act.~~

693 (10) "Defined contribution plan" means the component of a
694 local law plan to which deposits are made to provide benefits
695 for police officers, or for police officers and firefighters if
696 both are included. Such component is an element of a local law
697 plan and exists in conjunction with the defined benefit
698 component that meets the required benefits and minimum standards
699 of this chapter. The retirement benefits of the defined
700 contribution plan shall be provided through individual member
701 accounts, in accordance with the applicable provisions of the
702 Internal Revenue Code and related regulations, and are limited
703 to the contributions made into each member's account and the
704 actual accumulated earnings, net of expenses, earned on the
705 member's account.

706 (11)(7) "Division" means the Division of Retirement of the
707 Department of Management Services.

708 (12)(8) "Enrolled actuary" means an actuary who is
709 enrolled under Subtitle C of Title III of the Employee
710 Retirement Income Security Act of 1974 and who is a member of
711 the Society of Actuaries or the American Academy of Actuaries.

712 (13)(9) "Local law municipality" is any municipality in
713 which ~~there exists~~ a local law plan exists.

714 (14)(10) "Local law plan" means a retirement defined
715 ~~benefit pension~~ plan, which includes both a defined benefit plan
716 component and a defined contribution plan component, for police
717 officers, or for police officers and firefighters if both are,
718 ~~where~~ included, as described in s. 185.35, established by
719 municipal ordinance or special act of the Legislature, which



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720 ~~enactment~~ sets forth all plan provisions. Local law plan
721 provisions may vary from the provisions of this chapter if they
722 ~~provided that~~ required ~~minimum~~ benefits and minimum standards of
723 this chapter are met. However, any such variance must ~~shall~~
724 provide a greater benefit for police officers. Actuarial
725 valuations of local law plans shall be conducted by an enrolled
726 actuary as provided in s. 185.221(2)(b).

727 (15) "Long-term funded ratio" or "funded ratio" means the
728 ratio of the actuarial value of assets of the plan to the
729 actuarial accrued liabilities of the plan, as reported in the
730 most recent actuarial valuation of the plan, deemed to be in
731 compliance with chapter 112 by the Department of Management
732 Services.

733 (16) "Minimum benefits" means the benefits set forth in
734 ss. 185.01-185.341 and ss. 185.37-185.50.

735 (17) "Minimum standards" means the standards set forth in
736 ss. 185.01-185.341 and ss. 185.37-185.50.

737 (18)~~(11)~~ "Police officer" means any person who is elected,
738 appointed, or employed full time by a ~~any~~ municipality, who is
739 certified or required to be certified as a law enforcement
740 officer in compliance with s. 943.1395, who is vested with
741 authority to bear arms and make arrests, and whose primary
742 responsibility is the prevention and detection of crime or the
743 enforcement of the penal, criminal, traffic, or highway laws of
744 the state. The term ~~This definition~~ includes all certified
745 supervisory and command personnel whose duties include, in whole
746 or in part, the supervision, training, guidance, and management
747 responsibilities of full-time law enforcement officers, part-



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748 time law enforcement officers, or auxiliary law enforcement
749 officers, but does not include part-time law enforcement
750 officers or auxiliary law enforcement officers as those terms
751 ~~the same~~ are defined in s. 943.10(6) and (8), respectively. For
752 the purposes of this chapter only, the term also includes
753 ~~"police officer" also shall include~~ a public safety officer who
754 is responsible for performing both police and fire services. Any
755 plan may provide that the police chief shall have an option to
756 participate, ~~or not,~~ in that plan.

757 ~~(19)(12)~~ "Police Officers' Retirement Trust Fund" means a
758 trust fund, by whatever name known, as provided under s. 185.03
759 for the purpose of assisting municipalities in establishing and
760 maintaining a retirement plan for police officers.

761 (20) "Required benefits" means the lesser of the minimum
762 benefits set forth in this chapter and the base benefits of the
763 plan. For local law plans created after March 1, 2013, the
764 required benefits are the minimum benefits set forth in this
765 chapter.

766 ~~(21)(13)~~ "Retiree" or "retired police officer" means a
767 police officer who has entered retirement status. For the
768 purposes of a plan that includes a Deferred Retirement Option
769 Plan (DROP), a police officer who enters ~~the~~ DROP ~~is~~ shall be
770 considered a retiree for all purposes of the plan. However, a
771 police officer who enters ~~the~~ DROP and who is otherwise eligible
772 to participate may ~~shall~~ not ~~thereby~~ be precluded from
773 participating, or continuing to participate, in a supplemental
774 plan in existence on, or created after, March 12, 1999 ~~the~~
775 ~~effective date of this act.~~



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776 (22)~~(14)~~ "Retirement" means a police officer's separation
777 from city employment as a police officer with immediate
778 eligibility for ~~receipt~~ of benefits under the plan. For purposes
779 of a plan that includes a Deferred Retirement Option Plan
780 (DROP), "retirement" means the date a police officer enters ~~the~~
781 DROP.

782 (23) "Special benefits" means benefits provided in a
783 defined contribution plan for police officers.

784 (24)~~(15)~~ "Supplemental plan" means a plan to which
785 deposits of the premium tax moneys as provided in s. 185.08 are
786 made to provide extra benefits to police officers, or police
787 officers and firefighters if both are ~~where included, under this~~
788 ~~chapter.~~ Such a plan is an element of a local law plan and
789 exists in conjunction with a defined benefit component ~~plan~~ that
790 meets the required ~~minimum~~ benefits and minimum standards of
791 this chapter. Any supplemental plan in existence on March 1,
792 2013, shall be deemed to be defined contribution plan in
793 compliance with s. 185.35(8).

794 (25)~~(16)~~ "Supplemental plan municipality" means a ~~any~~
795 local law municipality in which ~~there existed~~ a supplemental
796 plan existed as of December 1, 2000.

797 Section 9. Paragraph (b) of subsection (6) of section
798 185.06, Florida Statutes, is amended to read:

799 185.06 General powers and duties of board of trustees.—For
800 any municipality, chapter plan, local law municipality, or local
801 law plan under this chapter:

802 (6) To assist the board in meeting its responsibilities
803 under this chapter, the board, if it so elects, may:



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804 (b) Employ an independent enrolled actuary, as defined in
805 s. 185.02~~(8)~~, at the pension fund's expense.

806
807 If the board chooses to use the municipality's or special
808 district's legal counsel or actuary, or chooses to use any of
809 the municipality's other professional, technical, or other
810 advisers, it must do so only under terms and conditions
811 acceptable to the board.

812 Section 10. Paragraphs (d) through (g) of subsection (1)
813 of section 185.07, Florida Statutes, are amended, and a new
814 paragraph (e) is added to that subsection, to read:

815 185.07 Creation and maintenance of fund.—For any
816 municipality, chapter plan, local law municipality, or local law
817 plan under this chapter:

818 (1) The municipal police officers' retirement trust fund
819 in each municipality described in s. 185.03 shall be created and
820 maintained in the following manner:

821 (d) By payment by the municipality or other sources of a
822 sum equal to the normal cost and the amount required to fund any
823 actuarial deficiency shown by an actuarial valuation as provided
824 in part VII of chapter 112 after taking into account the amounts
825 described in paragraphs (b), (c), (f), (g), and (h) and the
826 amounts of the tax proceeds described in paragraph (a) which
827 must be used to fund defined benefit plan benefits, except as
828 otherwise excluded from consideration in determining the
829 mandatory payment.

830 (e) For local law plans, and in addition to the mandatory
831 payment described in paragraph (d), by mandatory payment by the



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832 municipality of the amount specified in s. 185.35(3), if the
833 long-term funded ratio of the plan is less than 80 percent.

834 (f)-(e) By all gifts, bequests and devises when donated to
835 the fund.

836 (g)-(f) By all accretions to the fund by way of interest or
837 dividends on bank deposits or otherwise.

838 (h)-(g) By all other sources of income now or hereafter
839 authorized by law for the augmentation of such municipal police
840 officers' retirement trust fund.

841
842 Nothing in this section shall be construed to require adjustment
843 of member contribution rates in effect on the date this act
844 becomes a law, including rates that exceed 5 percent of salary,
845 provided that such rates are at least one-half of 1 percent of
846 salary.

847 Section 11. Subsection (2) of section 185.16, Florida
848 Statutes, is amended to read:

849 185.16 Requirements for retirement.—For any municipality,
850 chapter plan, local law municipality, or local law plan under
851 this chapter, any police officer who completes 10 or more years
852 of creditable service as a police officer and attains age 55, or
853 completes 25 years of creditable service as a police officer and
854 attains age 52, and for such period has been a member of the
855 retirement fund is eligible for normal retirement benefits.
856 Normal retirement under the plan is retirement from the service
857 of the city on or after the normal retirement date. In such
858 event, for chapter plans and local law plans, payment of
859 retirement income will be governed by the following provisions



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of this section:

860
861 (2) The amount of the monthly retirement income payable to
862 a police officer who retires on or after his or her normal
863 retirement date shall be an amount equal to the number of the
864 police officer's years of credited service multiplied by 2
865 percent of his or her average final compensation. ~~However, if~~
866 ~~current state contributions pursuant to this chapter are not~~
867 ~~adequate to fund the additional benefits to meet the minimum~~
868 ~~requirements in this chapter, only increment increases shall be~~
869 ~~required as state moneys are adequate to provide. Such~~
870 ~~increments shall be provided as state moneys become available.~~

871 Section 12. Section 185.35, Florida Statutes, is amended
872 to read:

873 185.35 Municipalities that have ~~having~~ their own
874 retirement pension plans for police officers. ~~For any~~
875 ~~municipality, chapter plan, local law municipality, or local law~~
876 ~~plan under this chapter,~~ In order for a municipality that has
877 ~~municipalities with its~~ their own retirement plan pension plans
878 for police officers, or for police officers and firefighters if
879 both are included, to participate in the distribution of the tax
880 fund established under ~~pursuant to~~ s. 185.08, a local law plan
881 and its plan sponsor ~~plans~~ must meet the required minimum
882 benefits and minimum standards set forth in this chapter:

883 (1) If a municipality has a retirement pension plan for
884 police officers, or for police officers and firefighters if both
885 are included, which, in the opinion of the division, meets the
886 required minimum benefits and minimum standards set forth in
887 this chapter, the board of trustees of the pension plan must, ~~as~~



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888 ~~approved by a majority of police officers of the municipality,~~
889 ~~may:~~

890 ~~(a) place the income from the premium tax in s. 185.08 in~~
891 ~~such ~~pension~~ plan for the sole and exclusive use of its police~~
892 ~~officers, or its police officers and firefighters if included,~~
893 ~~where it shall become an integral part of that ~~pension~~ plan and~~
894 ~~shall be used to fund benefits for police officers as follows:~~

895 (a) The base premium tax revenues must be used to fund
896 base benefits.

897 (b) Of the premium tax revenues received which are in
898 excess of the amount received for the 2012 calendar year, and
899 any accumulations of additional premium tax revenues which have
900 not been applied to fund extra benefits:

901 1. If the plan has a long-term funded ratio of less than
902 80 percent:

903 a. Fifty percent must be used as additional contributions
904 to pay the plan's actuarial deficiency and may not be considered
905 in the determination of the mandatory payment described in s.
906 185.07(1)(d);

907 b. Twenty-five percent must be used to fund base benefits;
908 and

909 c. The remainder must be placed in a defined contribution
910 plan to fund special benefits.

911 2. If the plan has a long-term funded ratio of 80 percent
912 or greater:

913 a. Fifty percent must be used to fund base benefits; and

914 b. The remainder must be placed in a defined contribution
915 plan to fund special benefits.



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916 (c) Additional premium tax revenues not described in
917 paragraph (b) must be used to fund benefits that were not
918 included in the base benefits pay extra benefits to the police
919 officers included in that pension plan; or

920 ~~(b) May place the income from the premium tax in s. 185.08~~
921 ~~in a separate supplemental plan to pay extra benefits to the~~
922 ~~police officers, or police officers and firefighters if~~
923 ~~included, participating in such separate supplemental plan.~~

924 (2) Insurance premium tax revenues may not be used to fund
925 benefits provided in a defined benefit plan which were not
926 provided by the plan as of March 1, 2013; however, for a local
927 law plan created after March 1, 2013, up to 50 percent of the
928 insurance premium tax revenues may be used to fund defined
929 benefit plan component benefits and the remainder used to fund
930 defined contribution plan component benefits.

931 (3) If a plan offers benefits in excess of its required
932 benefits, such benefits may be reduced if the plan continues to
933 meet the required benefits of the plan and the minimum standards
934 set forth in this chapter. The amount of insurance premium tax
935 revenues previously used to fund benefits in excess of the
936 plan's required benefits before the reduction must be used as
937 provided in subsection (1)(b). Twenty-five percent of the amount
938 of any mandatory contribution paid by the municipality or
939 special fire control district which was previously used to fund
940 benefits above the level of required benefits provided before
941 the reduction must be used as additional contributions as
942 specified in s. 185.07 to fund the plan's actuarial deficiency.

943 ~~(4)-(2)~~ The premium tax provided by this chapter shall in



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944 ~~all cases~~ be used in its entirety to provide retirement ~~extra~~
945 benefits to police officers, or to police officers and
946 firefighters if both are included. ~~However, local law plans in~~
947 ~~effect on October 1, 1998, must comply with the minimum benefit~~
948 ~~provisions of this chapter only to the extent that additional~~
949 ~~premium tax revenues become available to incrementally fund the~~
950 ~~cost of such compliance as provided in s. 185.16(2). If a plan~~
951 ~~is in compliance with such minimum benefit provisions, as~~
952 ~~subsequent additional tax revenues become available, they shall~~
953 ~~be used to provide extra benefits.~~ Local law plans created by
954 special act before May 27, 1939, shall be deemed to comply with
955 this chapter. ~~For the purpose of this chapter, the term:~~

956 ~~(a) "Additional premium tax revenues" means revenues~~
957 ~~received by a municipality pursuant to s. 185.10 which exceed~~
958 ~~the amount received for calendar year 1997.~~

959 ~~(b) "Extra benefits" means benefits in addition to or~~
960 ~~greater than those provided to general employees of the~~
961 ~~municipality and in addition to those in existence for police~~
962 ~~officers on March 12, 1999.~~

963 ~~(5)(3)~~ A retirement plan or amendment to a retirement plan
964 may not be proposed for adoption unless the proposed plan or
965 amendment contains an actuarial estimate of the costs involved.
966 Such proposed plan or proposed plan change may not be adopted
967 without the approval of the municipality or, where permitted,
968 the Legislature. Copies of the proposed plan or proposed plan
969 change and the actuarial impact statement of the proposed plan
970 or proposed plan change shall be furnished to the division
971 before the last public hearing thereon. Such statement must also



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972 indicate whether the proposed plan or proposed plan change is in
973 compliance with s. 14, Art. X of the State Constitution and
974 those provisions of part VII of chapter 112 which are not
975 expressly provided in this chapter. Notwithstanding any other
976 provision, only those local law plans created by special act of
977 legislation before May 27, 1939, are deemed to meet the minimum
978 benefits and minimum standards only in this chapter.

979 ~~(6)-(4)~~ Notwithstanding any other provision, with respect
980 to any supplemental plan municipality:

981 (a) Section 185.02(7)(a) ~~185.02(4)(a)~~ does not apply, and
982 a local law plan and a supplemental plan may continue to use
983 their definition of compensation or salary in existence on March
984 12, 1999.

985 (b) A local law plan and a supplemental plan must continue
986 to be administered by a board or boards of trustees numbered,
987 constituted, and selected as the board or boards were numbered,
988 constituted, and selected on December 1, 2000.

989 ~~(c) The election set forth in paragraph (1)(b) is deemed~~
990 ~~to have been made.~~

991 ~~(7)-(5)~~ The retirement plan setting forth the benefits and
992 the trust agreement, if any, covering the duties and
993 responsibilities of the trustees and the regulations of the
994 investment of funds must be in writing and copies made available
995 to the participants and to the general public.

996 (8) In addition to the defined benefit component of the
997 local law plan, each plan sponsor must have a defined
998 contribution plan component within the local law plan by October
999 1, 2013, or upon the creation date of a new participating plan.



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1000 However, the plan sponsor of any plan established by special act
1001 of the Legislature has until July 1, 2014, to create a defined
1002 contribution component within the plan.

1003 (9) Notwithstanding any other provision of this chapter, a
1004 municipality that has implemented or proposed changes to a local
1005 law plan based on the municipality's reliance on an
1006 interpretation of this chapter by the department on or after
1007 August 14, 2012 and before February 1, 2013, may continue the
1008 implemented changes or continue to implement proposed changes.
1009 Such reliance must be evidenced by formal correspondence between
1010 the municipality and the department which describes the specific
1011 changes to the local law plan, with the initial correspondence
1012 from the municipality dated prior to February 1, 2013. The
1013 changes to the local law plan which are otherwise contrary to
1014 the provisions of this chapter may continue in effect until the
1015 earlier of October 1, 2016, or the effective date of a
1016 collective bargaining agreement that is contrary to the changes
1017 to the local law plan.

1018 Section 13. The Legislature finds that a proper and
1019 legitimate state purpose is served when employees and retirees
1020 of the state and its political subdivisions, and the dependents,
1021 survivors, and beneficiaries of such employees and retirees, are
1022 extended the basic protections afforded by governmental
1023 retirement systems that provide fair and adequate benefits and
1024 that are managed, administered, and funded in an actuarially
1025 sound manner as required by s. 14, Article X of the State
1026 Constitution and part VII of chapter 112, Florida Statutes.
1027 Therefore, the Legislature determines and declares that this act



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1028 fulfills an important state interest.

1029 Section 14. This act shall take effect July 1, 2013.

1030

1031

1032 -----

1033

T I T L E A M E N D M E N T

1034

Remove everything before the enacting clause and insert:

1035

A bill to be entitled

1036

An act relating to firefighter and police officer pension plans;

1037

amending s. 175.021, F.S.; revising the legislative declaration

1038

to require all plans to meet the requirements of ch. 175, F.S.,

1039

in order to receive insurance premium tax revenues; amending s.

1040

175.032, F.S.; revising definitions to conform to changes made

1041

by the act and adding new definitions; amending s. 175.071,

1042

F.S.; conforming a cross-reference; amending s. 175.091, F.S.;

1043

revising existing payment provisions and providing for an

1044

additional mandatory payment by the municipality or special fire

1045

control district to the firefighters' pension trust fund;

1046

amending s. 175.162, F.S.; deleting a limitation on state

1047

contributions funding additional benefits; amending s. 175.351,

1048

F.S., relating to municipalities and special fire control

1049

districts that have their own pension plans and want to

1050

participate in the distribution of a tax fund; revising criteria

1051

governing the use of income from the premium tax; requiring plan

1052

sponsors to have a defined contribution plan in place by a

1053

certain date; authorizing a municipality to implement certain

1054

changes to a local law plan which are contrary to ch. 175, F.S.,

1055

under certain time-limited circumstances; amending s. 185.01,

1056

F.S.; revising the legislative declaration to require all plans

1057

to meet the requirements of ch. 185, F.S., in order to receive



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1058 insurance premium tax revenues; amending s. 185.02, F.S.;

1059 revising definitions to conform to changes made by the act and

1060 adding new definitions; deleting a provision allowing a local

1061 law plan to limit the amount of overtime payments which can be

1062 used for retirement benefit calculations; amending s. 185.06,

1063 F.S.; conforming a cross-reference; amending s. 185.07, F.S.;

1064 revising existing payment provisions and providing for an

1065 additional mandatory payment by the municipality to the police

1066 officers' retirement trust fund; amending s. 185.16, F.S.;

1067 deleting a limitation on state contributions funding additional

1068 benefits; amending s. 185.35, F.S., relating to municipalities

1069 that have their own pension plans for police officers and want

1070 to participate in the distribution of a tax fund; revising

1071 criteria governing the use of income from the premium tax;

1072 requiring plan sponsors to have a defined contribution plan in

1073 place by a certain date; authorizing a municipality to implement

1074 certain changes to a local law plan which are contrary to ch.

1075 185, F.S., under certain time-limited circumstances; providing a

1076 declaration of important state interest; providing an effective

1077 date.