



State Affairs Committee

Wednesday, April 08, 2015

9:00 AM

Morris Hall (17 HOB)

Meeting Packet

Steve Crisafulli
Speaker

Matt Caldwell
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

(AMENDED 4/6/2015 5:51:48PM)

Amended(1)

State Affairs Committee

Start Date and Time: Wednesday, April 08, 2015 09:00 am
End Date and Time: Wednesday, April 08, 2015 12:00 pm
Location: Morris Hall (17 HOB)
Duration: 3.00 hrs

Consideration of the following bill(s):

CS/HB 105 Publicly Funded Retirement Programs by Government Operations Subcommittee, Eagle
CS/CS/HB 113 Local Government Construction Preferences by Local Government Affairs Subcommittee, Government Operations Subcommittee, Perry
CS/HB 341 Local Government Pension Reform by Government Operations Subcommittee, Cummings
CS/CS/HB 371 Agency Inspectors General by Appropriations Committee, Government Operations Subcommittee, Raulerson
CS/HB 1083 Employment Opportunities for Persons with Disabilities by Government Operations Subcommittee, Rooney
HM 1285 Nuclear Arms in Iran by Rader, Fresen
CS/HB 1309 Publicly Funded Retirement Plans by Government Operations Subcommittee, Drake
HB 4043 Write-in Candidates by Geller

Consideration of the following proposed committee substitute(s):

PCS for HB 7117 -- Public Records Exemption

Consideration of the following proposed committee bill(s):

PCB SAC 15-03 -- Online Voter Registration

NOTICE FINALIZED on 04/06/2015 17:51 by Love.John

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 105 Publicly Funded Retirement Programs
SPONSOR(S): Government Operations Subcommittee; Eagle
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 216

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	11 Y, 0 N, As CS	Harrington	Williamson
2) Local Government Affairs Subcommittee	12 Y, 0 N	Darden	Miller
3) Finance & Tax Committee	16 Y, 1 N	Pewitt	Langston
4) State Affairs Committee		Harrington	Camechis

SUMMARY ANALYSIS

The Marvin B. Clayton Firefighters Pension Trust Fund Act (Act) provides a uniform retirement system for the benefit of municipal firefighters. All municipal firefighter retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of firefighter pension trust funds. The Act provides an incentive – access to premium tax revenues – to encourage the establishment of firefighter retirement plans by cities. The Act only applies to municipalities organized and established by law, and it does not apply to unincorporated areas of any county or counties.

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

The Revenue Estimating Conference, on March 27, 2015, estimated that the bill would have a state General Revenue impact of -\$0.2 million annually and a local government revenue impact of \$0.2 million annually beginning in fiscal year 2015-2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Municipal Firefighters Pension Trust Fund

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

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

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

Funding for these pension plans comes from four sources:³

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

The Firefighters' Pension Trust Fund is funded in part 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, and the net proceeds are transferred to the appropriate fund at the Department of Management Services, Division of Retirement (division). In 2013, premium tax distributions to municipalities and special fire control districts from the Firefighters' Pension Trust Fund amounted to \$74.7 million.⁵

To qualify for insurance premium tax dollars, plans must meet requirements found in chapter 175, F.S. Responsibility for overseeing and monitoring these plans is assigned to the division; however, the day-to-day operational control rests with the local boards of trustees.⁶ The board of trustees must invest and reinvest the assets of the fund according to s. 175.071, F.S., unless specifically authorized to vary from the law. If the division deems that a firefighter pension plan created pursuant to chapter 175, F.S., is not in compliance, the sponsoring municipality could be denied its insurance premium tax revenues.⁷

¹ Section 175.021(1), F.S.

² *Id.*

³ Section 175.091(1), F.S.

⁴ Section 175.101, F.S.

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

http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans (accessed 3/12/15).

⁶ See s. 175.071, F.S.

⁷ See s. 175.341(1), F.S.

Counties Furnishing Municipal Services

The legislative and governing body of a county has the power to carry on county government.⁸ This power includes the power to establish Municipal Services Taxing Units (MSTUs) for any part or all of the unincorporated area of a county.⁹ The creation of a MSTU allows the county's governing body to place the burden of ad valorem taxes upon property in a geographic area less than countywide to fund a particular municipal-type service or services. The MSTU is used in a county budget to separate those ad valorem taxes levied within the taxing unit itself to ensure that the funds derived from the tax levy are used within the boundaries of the taxing unit for the contemplated services. If ad valorem taxes are levied to provide these municipal services, counties are authorized to levy up to 10 mills.¹⁰

The MSTU may encompass the entire unincorporated area, a portion of the unincorporated area, or all or part of the boundaries of a municipality. However, the inclusion of municipal boundaries within the MSTU is subject to the consent by ordinance of the governing body of the affected municipality given either annually or for a term of years.¹¹

Effect of Proposed Changes

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

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

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

B. SECTION DIRECTORY:

Section 1. amends s. 175.041, F.S., revising applicability of the Marvin B. Clayton Firefighters Pension Trust Fund Act to include a municipality that provides fire protection services to a MSTU under an interlocal agreement.

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

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

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

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

Section 7. provides an effective date of July 1, 2015.

⁸ Section 125.01(1), F.S.

⁹ Section 125.01(1)(q), F.S.

¹⁰ Section 200.071(3), F.S.

¹¹ Section 125.01(1)(q), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference, on March 27, 2015, estimated that the bill would have a state General Revenue impact of -\$0.2 million annually beginning in fiscal year 2015-2016.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference, on March 27, 2015, estimated that the bill would have a local government revenue impact of \$0.2 million annually beginning in fiscal year 2015-2016.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill specifies that a municipality is entitled to premium tax distributions provided by chapter 175, F.S., for providing fire services to MSTUs. As a result, this bill will have a fiscal impact on state revenues because state premium taxes paid by an insurer to fund a municipal firefighter retirement plan are credited against the premium taxes paid to the state by the insurance company.¹²

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 4, 2015, the Government Operations Subcommittee adopted one amendment and reported the bill favorable with a committee substitute. The amendment clarified that a county must pass an ordinance on behalf of the MSTU.

This analysis is drafted to the committee substitute as approved by the Government Operations Subcommittee.

1 A bill to be entitled
 2 An act relating to publicly funded retirement
 3 programs; amending s. 175.041, F.S.; revising
 4 applicability of the Marvin B. Clayton Firefighters
 5 Pension Trust Fund Act; providing that any
 6 municipality that provides fire protection services to
 7 a municipal services taxing unit under an interlocal
 8 agreement is eligible to receive property insurance
 9 premium taxes; authorizing a county to enact an
 10 ordinance levying a tax on behalf of the municipal
 11 services taxing unit receiving fire services; amending
 12 s. 175.101, F.S.; authorizing a municipal services
 13 taxing unit that enters into an interlocal agreement
 14 for fire protection services with another municipality
 15 to impose an excise tax on property insurance
 16 premiums; amending s. 175.111, F.S.; requiring
 17 municipal services taxing units to provide the
 18 Division of Retirement of the Department of Management
 19 Services with a certified copy of the ordinance
 20 assessing and imposing certain taxes; amending ss.
 21 175.122 and 175.351, F.S.; revising provisions
 22 relating to the limitation of disbursement to conform
 23 to changes made by the act; amending s. 175.411, F.S.;
 24 authorizing a municipal services taxing unit, under
 25 certain conditions, to revoke its participation and
 26 cease to receive property insurance premium taxes;

27 providing an effective date.

28

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

30

31 Section 1. Subsection (3) of section 175.041, Florida
 32 Statutes, is amended to read:

33 175.041 Firefighters' Pension Trust Fund created;
 34 applicability of provisions.—For any municipality, special fire
 35 control district, chapter plan, local law municipality, local
 36 law special fire control district, or local law plan under this
 37 chapter:

38 (3) ~~The provisions of~~ This chapter applies ~~shall apply~~
 39 only to municipalities organized and established pursuant to the
 40 laws of the state and to special fire control districts. This
 41 chapter does, ~~and said provisions shall~~ not apply to the
 42 unincorporated areas of any county or counties except with
 43 respect to municipal services taxing units established in
 44 unincorporated areas for the purpose of receiving fire
 45 protection service from a municipality and special fire control
 46 districts that include unincorporated areas. This chapter also
 47 does not, ~~nor shall the provisions hereof~~ apply to any
 48 governmental entity whose firefighters are eligible to
 49 participate in the Florida Retirement System.

50 (a) Special fire control districts that include, or
 51 consist exclusively of, unincorporated areas of one or more
 52 counties may levy and impose the tax and participate in the

53 retirement programs enabled by this chapter.

54 (b) With respect to the distribution of premium taxes, a
 55 single consolidated government consisting of a former county and
 56 one or more municipalities, consolidated pursuant to s. 3 or s.
 57 6(e), Art. VIII of the State Constitution, is also eligible to
 58 participate under this chapter. The consolidated government
 59 shall notify the division when it has entered into an interlocal
 60 agreement to provide fire services to a municipality within its
 61 boundaries. The municipality may enact an ordinance levying the
 62 tax as provided in s. 175.101. Upon being provided copies of the
 63 interlocal agreement and the municipal ordinance levying the
 64 tax, the division may distribute any premium taxes reported for
 65 the municipality to the consolidated government as long as the
 66 interlocal agreement is in effect.

67 (c) Any municipality that has entered into an interlocal
 68 agreement to provide fire protection services to any other
 69 incorporated municipality or a municipal services taxing unit in
 70 an unincorporated area, in its entirety, for a period of 12
 71 months or more may be eligible to receive the premium taxes
 72 reported for such other municipality or municipal services
 73 taxing unit. In order to be eligible for such premium taxes, the
 74 municipality providing the fire services must notify the
 75 division that it has entered into an interlocal agreement with
 76 another municipality or a county on behalf of a municipal
 77 services taxing unit. The municipality receiving the fire
 78 services, or a county on behalf of the municipal services taxing

79 unit receiving the fire services, may enact an ordinance levying
 80 the tax as provided in s. 175.101. Upon being provided copies of
 81 the interlocal agreement and the ~~municipal~~ ordinance levying the
 82 tax, the division may distribute any premium taxes reported for
 83 the municipality or municipal services taxing unit receiving the
 84 fire services to the participating municipality providing the
 85 fire services as long as the interlocal agreement is in effect.

86 Section 2. Subsections (1) and (3) of section 175.101,
 87 Florida Statutes, are amended to read:

88 175.101 State excise tax on property insurance premiums
 89 authorized; procedure.—For any municipality, special fire
 90 control district, chapter plan, local law municipality, local
 91 law special fire control district, or local law plan under this
 92 chapter:

93 (1) Each municipality, municipal services taxing unit, or
 94 special fire control district in this state described and
 95 classified in s. 175.041, having a lawfully established
 96 firefighters' pension trust fund or municipal fund or special
 97 fire control district fund, by whatever name known, providing
 98 pension benefits to firefighters as provided under this chapter,
 99 or receiving fire protection services from a municipality
 100 participating under this chapter, may assess and impose on every
 101 insurance company, corporation, or other insurer now engaged in
 102 or carrying on, or who shall hereinafter engage in or carry on,
 103 the business of property insurance as shown by the records of
 104 the Office of Insurance Regulation of the Financial Services

105 Commission, an excise tax in addition to any lawful license or
 106 excise tax now levied by each of the municipalities, municipal
 107 services taxing units, or special fire control districts,
 108 respectively, amounting to 1.85 percent of the gross amount of
 109 receipts of premiums from policyholders on all premiums
 110 collected on property insurance policies covering property
 111 within the corporate limits of such municipalities or within the
 112 legally defined boundaries of municipal services taxing units or
 113 special fire control districts, respectively. Whenever the
 114 boundaries of a special fire control district that has lawfully
 115 established a firefighters' pension trust fund encompass a
 116 portion of the corporate territory of a municipality that has
 117 also lawfully established a firefighters' pension trust fund, or
 118 a municipal services taxing unit receiving fire protection
 119 services from a municipality participating under this chapter,
 120 that portion of the tax receipts attributable to insurance
 121 policies covering property situated both within the municipality
 122 or municipal services taxing unit and the special fire control
 123 district shall be given to the fire service provider. For the
 124 purpose of this section, the boundaries of a special fire
 125 control district include an area that has been annexed until the
 126 completion of the 4-year period provided for in s. 171.093(4),
 127 or other agreed-upon extension, or if a special fire control
 128 district is providing services under an interlocal agreement
 129 executed in accordance with s. 171.093(3). The agent shall
 130 identify the fire service provider on the property owner's

131 application for insurance. Remaining revenues collected pursuant
 132 to this chapter shall be distributed to the municipality or
 133 special fire control district according to the location of the
 134 insured property.

135 (3) This excise tax shall be payable annually on March 1
 136 of each year after the passage of an ordinance, in the case of a
 137 municipality or municipal services taxing unit, or resolution,
 138 in the case of a special fire control district, assessing and
 139 imposing the tax authorized by this section. Installments of
 140 taxes shall be paid according to the provision of s.
 141 624.5092(2)(a), (b), and (c).

142
 143 This section also applies to any municipality consisting of a
 144 single consolidated government which is made up of a former
 145 county and one or more municipalities, consolidated pursuant to
 146 the authority in s. 3 or s. 6(e), Art. VIII of the State
 147 Constitution, and to property insurance policies covering
 148 property within the boundaries of the consolidated government,
 149 regardless of whether the properties are located within one or
 150 more separately incorporated areas within the consolidated
 151 government, provided the properties are being provided fire
 152 protection services by the consolidated government. This section
 153 also applies to any municipality, as provided in s.
 154 175.041(3)(c), which has entered into an interlocal agreement to
 155 receive fire protection services from another municipality
 156 participating under this chapter. The excise tax may be levied

157 | on all premiums collected on property insurance policies
 158 | covering property located within the corporate limits of the
 159 | municipality receiving the fire protection services, but will be
 160 | available for distribution to the municipality providing the
 161 | fire protection services.

162 | Section 3. Section 175.111, Florida Statutes, is amended
 163 | to read:

164 | 175.111 Certified copy of ordinance or resolution filed;
 165 | insurance companies' annual report of premiums; duplicate files;
 166 | book of accounts.—For any municipality, municipal services
 167 | taxing unit, special fire control district, chapter plan, local
 168 | law municipality, local law special fire control district, or
 169 | local law plan under this chapter, whenever any municipality, or
 170 | any county on behalf of a municipal services taxing unit, passes
 171 | an ordinance or whenever any special fire control district
 172 | passes a resolution establishing a chapter plan or local law
 173 | plan assessing and imposing the taxes authorized in s. 175.101,
 174 | a certified copy of such ordinance or resolution shall be
 175 | deposited with the division. Thereafter every insurance company,
 176 | association, corporation, or other insurer carrying on the
 177 | business of property insurance on real or personal property, on
 178 | or before the succeeding March 1 after date of the passage of
 179 | the ordinance or resolution, shall report fully in writing and
 180 | under oath to the division and the Department of Revenue a just
 181 | and true account of all premiums by such insurer received for
 182 | property insurance policies covering or insuring any real or

183 personal property located within the corporate limits of each
 184 such municipality, municipal services taxing unit, or special
 185 fire control district during the period of time elapsing between
 186 the date of the passage of the ordinance or resolution and the
 187 end of the calendar year. The report shall include the code
 188 designation as prescribed by the division for each piece of
 189 insured property, real or personal, located within the corporate
 190 limits of each municipality and within the legally defined
 191 boundaries of each special fire control district and municipal
 192 services taxing unit. The aforesaid insurer shall annually
 193 thereafter, on March 1, file with the Department of Revenue a
 194 similar report covering the preceding year's premium receipts,
 195 and every such insurer at the same time of making such reports
 196 shall pay to the Department of Revenue the amount of the tax
 197 hereinbefore mentioned. Every insurer engaged in carrying on
 198 such insurance business in the state shall keep accurate books
 199 of accounts of all such business done by it within the corporate
 200 limits of each such municipality and within the legally defined
 201 boundaries of each such special fire control district and
 202 municipal services taxing unit, and in such manner as to be able
 203 to comply with the provisions of this chapter. Based on the
 204 insurers' reports of premium receipts, the division shall
 205 prepare a consolidated premium report and shall furnish to any
 206 municipality, municipal services taxing unit, or special fire
 207 control district requesting the same a copy of the relevant
 208 section of that report.

209 Section 4. Section 175.122, Florida Statutes, is amended
 210 to read:

211 175.122 Limitation of disbursement.—For any municipality,
 212 municipal services taxing unit, special fire control district,
 213 chapter plan, local law municipality, local law special fire
 214 control district, or local law plan under this chapter, any
 215 municipality, municipal services taxing unit, or special fire
 216 control district participating in the firefighters' pension
 217 trust fund pursuant to the provisions of this chapter, whether
 218 under a chapter plan or local law plan, shall be limited to
 219 receiving any moneys from such fund in excess of that produced
 220 by one-half of the excise tax, as provided for in s. 175.101;
 221 however, any such municipality, municipal services taxing unit,
 222 or special fire control district receiving less than 6 percent
 223 of its fire department payroll from such fund shall be entitled
 224 to receive from such fund the amount determined under s.
 225 175.121, in excess of one-half of the excise tax, not to exceed
 226 6 percent of its fire department payroll. Payroll amounts of
 227 members included in the Florida Retirement System shall not be
 228 included.

229 Section 5. Subsection (1) of section 175.351, Florida
 230 Statutes, is amended to read:

231 175.351 Municipalities, municipal services taxing units,
 232 and special fire control districts having their own pension
 233 plans for firefighters.—For any municipality, municipal services
 234 taxing unit, special fire control district, local law

235 municipality, local law special fire control district, or local
 236 law plan under this chapter, in order for municipalities,
 237 municipal services taxing units, and special fire control
 238 districts with their own pension plans for firefighters, or for
 239 firefighters and police officers if included, to participate in
 240 the distribution of the tax fund established pursuant to s.
 241 175.101, local law plans must meet the minimum benefits and
 242 minimum standards set forth in this chapter.

243 (1) If a municipality has a pension plan for firefighters,
 244 or a pension plan for firefighters and police officers if
 245 included, which in the opinion of the division meets the minimum
 246 benefits and minimum standards set forth in this chapter, the
 247 board of trustees of the pension plan, as approved by a majority
 248 of firefighters of the municipality, may:

249 (a) Place the income from the premium tax in s. 175.101 in
 250 such pension plan for the sole and exclusive use of its
 251 firefighters, or for firefighters and police officers if
 252 included, where it shall become an integral part of that pension
 253 plan and shall be used to pay extra benefits to the firefighters
 254 included in that pension plan; or

255 (b) Place the income from the premium tax in s. 175.101 in
 256 a separate supplemental plan to pay extra benefits to
 257 firefighters, or to firefighters and police officers if
 258 included, participating in such separate supplemental plan.

259 Section 6. Section 175.411, Florida Statutes, is amended
 260 to read:

261 175.411 Optional participation.—A municipality, municipal
 262 services taxing unit, or special fire control district may
 263 revoke its participation under this chapter by rescinding the
 264 legislative act, ordinance, or resolution which assesses and
 265 imposes the taxes authorized in s. 175.101, and by furnishing a
 266 certified copy of such legislative act, ordinance, or resolution
 267 to the division. Thereafter, the municipality, municipal
 268 services taxing unit, or special fire control district shall be
 269 prohibited from participating under this chapter, and shall not
 270 be eligible for future premium tax moneys. Premium tax moneys
 271 previously received shall continue to be used for the sole and
 272 exclusive benefit of firefighters, or firefighters and police
 273 officers where included, and no amendment, legislative act,
 274 ordinance, or resolution shall be adopted which shall have the
 275 effect of reducing the then-vested accrued benefits of the
 276 firefighters, retirees, or their beneficiaries. The
 277 municipality, municipal services taxing unit, or special fire
 278 control district shall continue to furnish an annual report to
 279 the division as provided in s. 175.261. If the municipality,
 280 municipal services taxing unit, or special fire control district
 281 subsequently terminates the defined benefit plan, they shall do
 282 so in compliance with the provisions of s. 175.361.

283 Section 7. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 113 Local Government Construction Preferences
SPONSOR(S): Local Government Affairs Subcommittee; Government Operations Subcommittee; Perry & others
TIED BILLS: IDEN./SIM. BILLS: CS/CS/SB 778

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	9 Y, 4 N, As CS	Harrington	Williamson
2) Local Government Affairs Subcommittee	6 Y, 5 N, As CS	Zaborske	Miller
3) Appropriations Committee	19 Y, 9 N	White	Leznoff
4) State Affairs Committee		Harrington	Camechis

SUMMARY ANALYSIS

Contracts for construction services over a specified, projected threshold cost must be competitively awarded. Florida law provides a preference for the employment of state residents in construction contracts funded by money appropriated with state funds. Such contracts must contain a provision requiring the contractor to give preference to the employment of state residents in the performance of the work if state residents have substantially equal qualifications to those of non-residents. If a construction contract is funded by local funds, the contract may contain such a provision.

The bill provides that for a competitive solicitation for construction services in which 50 percent or more of the cost is to be paid from funds appropriated by the state, then a state college, county, municipality, school district, or other political subdivision may not use a local ordinance or regulation that provides a preference based upon the contractor's:

- Maintaining an office or place of business within a particular local jurisdiction;
- Hiring employees or subcontractors from within a particular local jurisdiction; or
- Prior payment of local taxes, assessments, or duties within a particular local jurisdiction.

It requires a state college, county, municipality, school district, or other political subdivision to disclose certain information regarding the use of funds appropriated by the state in its competitive solicitation document. The bill also provides that except for when 50 percent or more of the costs for construction services will be funded from state-appropriated funds, a state college, county, municipality, school district, or other political subdivision is not prevented from awarding a contract to a contractor in accordance with applicable state laws or local ordinances or regulations.

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

The bill has an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Procurement of Construction Services

Chapter 255, F.S., specifies the procedures to be followed in the procurement of construction services for public property and publicly owned buildings. The Department of Management Services is responsible for establishing by rule the following:¹

- Procedures for determining the qualifications and responsibility of potential bidders prior to advertisement for and receipt of bids for building construction contracts;
- Procedures for awarding each state agency construction project to the lowest qualified bidder;
- Procedures to govern negotiations for construction contracts and contract modifications when such negotiations are determined to be in the best interest of the state; and
- Procedures for entering into performance-based contracts for the development of public facilities when those contracts are determined to be in the best interest of the state.

State contracts for construction projects that are projected to cost in excess of \$200,000 must be competitively bid.² Counties, municipalities, special districts, or other political subdivisions seeking to construct or improve a public building must competitively bid the project if the projected cost is in excess of \$300,000.³ Competitively award means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response for qualifications, or proposals submitted for competitive negotiation.⁴ Counties, municipalities, special districts, and other political subdivisions may establish, by municipal or county ordinance or special district resolution, procedures for conducting the bidding process.⁵

Section 255.0525, F.S., requires the solicitation of competitive bids or proposals for any state construction project that is projected to cost more than \$200,000 to be publicly advertised in the Florida Administrative Register (FAR) at least 21 days prior to the established bid opening. If the construction project is projected to exceed \$500,000, the advertisement must be published at least 30 days prior to the bid opening in the FAR, and at least once 30 days prior to the bid opening in a newspaper of general circulation in the county where the project is located.⁶

Florida Preference to State Residents

Florida law provides a preference for the employment of state residents in construction contracts funded by money appropriated with state funds. Such contracts must contain a provision requiring the contractor to give preference to the employment of state residents in the performance of the work if state residents have substantially equal qualifications⁷ to those of non-residents.⁸ If a construction contract is funded by local funds, the contract may contain such a provision.⁹ In addition, a contractor

¹ Section 255.29, F.S.

² See chapter 60D-5.002 and 60D-5.0073, F.A.C.; see also s. 255.0525, F.S.

³ See s. 255.20(1), F.S. For electrical work, local governments must competitively bid projects estimated to cost more than \$75,000.

⁴ *Id.*

⁵ *Id.*

⁶ For counties, municipalities, and political subdivisions, similar publishing provisions apply. Section 255.0525(2), F.S.

⁷ Section 255.099(1)(a), F.S., defines substantially equal qualifications as the “qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are better suited for the position than the qualifications held by the other person or persons.”

⁸ Section 255.099(1), F.S.

⁹ *Id.*

required to employ state residents must contact the Department of Economic Opportunity to post the contractor's employment needs in the state's job bank system.¹⁰

Effect of the Bill

The bill prohibits the use of certain local ordinances or regulations when construction services are procured by a state college, county, municipality, school district, or other political subdivision if 50 percent or more of the costs will be paid from state-appropriated funds. Specifically, the local ordinance or regulation may not provide a preference based upon the contractor's:

- Maintaining an office or place of business within a particular local jurisdiction;
- Hiring employees or subcontractors from within a particular local jurisdiction; or
- Prior payment of local taxes, assessments, or duties within a particular local jurisdiction.

When 50 percent or more of the costs will be paid from state-appropriated funds, a state college, county, municipality, school district, or other political subdivision must disclose in the solicitation document the amount of such funds or the percentage of such funds as compared to the anticipated total cost of the construction services.

The bill also provides that except for when 50 percent or more of the costs for construction services will be funded from state-appropriated funds, a state college, county, municipality, school district, or other political subdivision is not prevented from awarding a contract to a contractor in accordance with applicable state laws or local ordinances or regulations.

B. SECTION DIRECTORY:

Section 1. creates s. 255.0991, F.S., prohibiting the use of local ordinances or regulations that provide a geographical preference when awarding certain contracts for construction services.

Section 2. provides an effective date of July 1, 2015.

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.

¹⁰ Section 255.099(1)(b), F.S.
STORAGE NAME: h0113f.SAC.DOCX
DATE: 4/3/2015

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may result in more business being awarded to state certified contractors as a result of prohibiting certain local ordinances and regulations that may otherwise restrict a non-local contractor from competing.

D. FISCAL COMMENTS:

None.

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 action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2015, the Government Operations Subcommittee adopted a strike-all amendment and reported the bill favorable with committee substitute.

The strike-all amendment clarified that a local government could not use a local ordinance or regulation providing a geographical preference when awarding certain contracts for construction services. The bill prohibited the use of a local ordinance or regulation that prohibited certain vendors from competing for the contract. The strike-all amendment also:

- Narrowed the scope of the bill by making it applicable to contracts for construction services only; and
- Relocated the provisions to chapter 255, F.S., because the chapter regulates construction services for public property and publicly owned buildings.

On March 3, 2015, the Local Government Affairs Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment increases the prohibition threshold from 20 percent to 50 percent or more of the cost to be paid from funds appropriated by the state. The amendment also provides a technical amendment by changing the term "vendor" to "contractor" in the bill.

This analysis is drafted to the committee substitute as passed by the Local Government Affairs Subcommittee.

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A bill to be entitled
 An act relating to local government construction preferences; creating s. 255.0991, F.S.; prohibiting local ordinances and regulations from restricting competition for the award of a contract for construction services based upon certain conditions; requiring a state college, county, municipality, school district, or other political subdivision of the state to make specified disclosures in competitive solicitation documents; providing applicability; providing an effective date.

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

Section 1. Section 255.0991, Florida Statutes, is created to read:

255.0991 Contracts for construction services; prohibited local government preferences.-

(1) For a competitive solicitation for construction services in which 50 percent or more of the cost will be paid from state-appropriated funds, a state college, county, municipality, school district, or other political subdivision of the state may not use a local ordinance or regulation that provides a preference based upon:

(a) The contractor's maintaining an office or place of business within a particular local jurisdiction;

27 (b) The contractor's hiring employees or subcontractors
28 from within a particular local jurisdiction; or

29 (c) The contractor's prior payment of local taxes,
30 assessments, or duties within a particular local jurisdiction.

31 (2) For any competitive solicitation subject to this
32 section, a state college, county, municipality, school district,
33 or other political subdivision of the state shall disclose in
34 the solicitation document whether payment will be made from
35 funds appropriated by the state and, if known, the amount of
36 such funds or the percentage of such funds as compared to the
37 anticipated total cost of the construction services.

38 (3) Except as provided in subsection (1), this section
39 does not prevent a state college, county, municipality, school
40 district, or other political subdivision of the state from
41 awarding a contract to a contractor in accordance with
42 applicable state laws or local ordinances or regulations.

43 Section 2. This act shall take effect July 1, 2015.



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: State Affairs Committee
 2 Representative Perry offered the following:

Amendment

Between lines 18 and 19, insert:

6 (1) For purposes of this section, "state-appropriated
 7 funds" means all funds appropriated in the General
 8 Appropriations Act, excluding federal funds.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 341 Local Government Pension Reform
SPONSOR(S): Government Operations Subcommittee; Cummings
TIED BILLS: IDEN./SIM. BILLS: CS/SB 172

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	8 Y, 4 N, As CS	Harrington	Williamson
2) State Affairs Committee		Harrington	Camechis

SUMMARY ANALYSIS

Chapters 175 and 185, F.S., were created to provide uniform retirement system benefits for firefighters who are employed by a municipal or special fire control district, and for municipal police officers. A 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. A Police Officers' Pension 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.

The bill substantially changes how insurance premium tax revenues must be used in the funding of firefighter and police officer pension benefits under chapters 175 and 185, F.S, and requires plans to create a defined contribution component of the plan. The bill amends parallel provisions in chapters 175 and 185, F.S., and specifies a formula for the use of these funds.

The bill provides that notwithstanding the premium tax distribution requirements, a plan may deviate from the provisions by mutual consent of the members' collective bargaining representative or, if none, by majority consent of the active firefighter or police officer members of the fund, and by consent of the municipality or special fire control district.

The bill grandfathers in changes to a plan that are based on that particular plan's reliance on a Department of Management Services interpretation of the existing statute, which must be evidenced by an initial proposal, agreement, or correspondence from the municipality dated before March 4, 2015.

The bill amends the definition of "compensation" or "salary" for police officers. It provides that overtime may be limited before July 1, 2011, in a local law plan by the plan provisions.

The bill may have an indeterminate negative fiscal impact on state premium tax revenues and an indeterminate fiscal impact on local governments offering pension plans under chapter 175 or 185, F.S.

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 Division of Retirement (division), Department of Management Services (DMS).

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

Chapters 175 and 185, F.S., 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.²

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. In 1993, special fire control districts became eligible to participate under chapter 175, F.S.

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 law plan may vary from the provisions in that act so long as the minimum standards are met.

Funding for these pension plans primarily 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 to fund the normal cost and any actuarial deficiency of the plan.

The Firefighters' Pension Trust Fund is funded through an excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or special fire control district.³ It is payable by the insurers to the Department of Revenue (DOR), and the net

¹ Section 112.62, F.S.

² See ss. 175.021(1) and 185.01(1), F.S.

³ Section 175.101, F.S.

proceeds are transferred to the appropriate fund at the division. In 2013, premium tax distributions to municipalities and special fire control districts from the Firefighters' Pension Trust Fund amounted to \$74.7 million.⁴

The Police Officers' Pension 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.⁵ 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 2013, premium tax distributions to municipalities from the Police Officers' Pension Trust Fund amounted to \$64.8 million.⁶

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 the law, the sponsoring municipality could be denied its insurance premium tax revenues.

Minimum Benefit Levels

Chapters 175 and 185, F.S., specify certain "minimum benefits" that must be provided by firefighter and police officer pension plans⁷ as follows:

Description of Minimum Benefit Levels	
Benefit Calculation	2 percent accrual rate x average final compensation x years of creditable service
Average Final Compensation (AFC)	Highest 5 years of last 10 years of service
Vesting	10 years
Normal Retirement Age	Age 55 with 10 years of creditable service or age 52 with 25 years of service
Early Retirement	Age 50 with 10 years of service. The benefit reduction may not exceed 3 percent for each year prior to the member's normal retirement age.
Death Benefits	If vested, the member's beneficiary receives the member's retirement benefit based on early or normal retirement benefits, whichever is applicable. If pre-retirement death, the beneficiary receives the benefit for 10 years. If the member has already retired and has received a retirement benefit for less than 10 years, the beneficiary receives the member's benefit based on the benefit option selected by the member for the remainder of the 10 years.
Disability Benefits	Plans must provide in-line-of-duty disability benefits immediately and require 10 years of service for non-duty disability benefits. Disability benefits must not be less than 25 percent of the average monthly earnings if non-duty disability and not less than 42 percent of average monthly compensation for in-line-of-duty disability.

⁴ A copy of the 2013 Premium Tax Distribution report is available online at: http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans (last visited March 9, 2015).

⁵ Section 185.08, F.S.

⁶ *Supra* at FN 4.

⁷ Sections 175.162, 175.191, 185.16, and 185.18, F.S.

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 firefighter and police officer pension plans, except the local law plans established by the cities of Jacksonville, Coral Gables, Miami, and Miami Beach.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 to 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, DMS 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 the 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, DMS responded to a letter from the City of Naples, Florida, advising that its ongoing interpretation of s. 185.35(2), F.S., “appears inaccurate.”¹⁰ DMS 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, DMS 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 premium tax revenues. Thus, DMS’ new interpretation requires plans in effect on October 1, 1998, to provide minimum chapter benefits *only* to the extent the benefits 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 a 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 Officer Pension Plans: Definition of “Compensation” or “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.¹¹ 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 benefits. However, s. 185.02(4), F.S., also provides that overtime for police officers, for purposes of calculating retirement 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.

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

⁹ See ss. 175.351(2)(b) and 185.35(2)(b), F.S.

¹⁰ A copy of the letter is on file with the Government Operations Subcommittee.

¹¹ Chapter 2011-216, L.O.F.

Effect of the Bill

Definitions

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

- “Additional premium tax revenues” means revenues received by a municipality (or special fire control district), which exceed base premium tax revenues.
- “Base premium tax revenues” means:
 - The revenues received by a municipality or special fire control district for the 2013 calendar year; or
 - For a municipality or special fire control district that did not receive premium tax revenues for the 2013 calendar year, the revenues received during the second calendar year of participation.
- “Defined contribution plan” means the component of a local law plan to which deposits, if any, 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 minimum 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.
- “Minimum benefits” means the benefits set forth in the applicable chapter.
- “Minimum standards” means the standards set forth in the applicable chapter.
- “Special act plan” means a plan subject to the provisions of the applicable chapter that was created by and continues to require an act of the Legislature to alter plan benefits.
- “Special benefits” means benefits provided in a defined contribution plan for firefighters or police officers, as applicable.

The bill revises the definition of “supplemental plan” to provide that any supplemental plan in existence on March 1, 2015, must be deemed a defined contribution plan in compliance with the chapter. 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.

Defined Contribution Plan Component

The bill requires plan sponsors to create a defined contribution component within their plans to fund special benefits:

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

Additional Benefits

The bill deletes the provision that based the availability of additional benefits upon state funding.

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 benefits under chapters 175 and 185, F.S. The bill amends parallel provisions in chapters 175 and 185, F.S., and specifies:

- Premium tax revenues equal to the amount received in 2013 (base premium tax revenues) must be used to fund the minimum benefits provided for in chapter 175 or 185, F.S.
- Premium tax revenues in excess of the amount received in calendar year 2013 must be used as follows:
 - Fifty percent must be used to fund the minimum chapter benefits or other benefits in excess of the minimum benefits as determined by the municipality or special fire control district; and
 - Fifty percent must be used to fund a defined contribution component of the plan.

For plans that did not receive premium tax revenues for the 2013 calendar year, insurance premium tax revenues received by a municipality or special fire control district based upon the tax collections for the first and second year of participation must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality or special fire control district.

Collective Bargaining Agreement

The bill provides that notwithstanding the premium tax distribution requirements, a plan may deviate from the provisions by mutual consent of the members' collective bargaining representative or, if none, by majority consent of the active firefighter or police officer members of the fund, and by consent of the municipality or special fire control district, provided that the plan continues to meet the minimum benefits and standards of the chapter. However, a plan operating with a mutual consent agreement that does not meet a minimum benefit as of October 1, 2012, may continue to provide the benefit at the same level as provided on October 1, 2012, and all other benefit levels must continue to meet the minimum benefit levels. The bill provides that certain existing arrangements within a special act plan or plan within a supplemental plan municipality are authorized deviations as of the effective date of the bill. Specifically, an existing arrangement for the use of premium tax revenues contained within a special act plan or plan within a supplemental plan municipality is considered a deviation by mutual consent.

Reliance on DMS Interpretation

The bill provides that notwithstanding the provisions of chapter 175 or 185, F.S., a plan that has relied on an interpretation of DMS on or after August 14, 2012, and before March 4, 2015, may continue to implement proposed changes in reliance on that interpretation. Such reliance must be evidenced by a written collective bargaining proposal or agreement, or formal correspondence between the municipality or district and DMS that describes the specific changes to the plan. The initial proposal, agreement, or correspondence from the municipality must be dated before March 4, 2015. The changes that are otherwise contrary to the chapter provisions may continue in effect until the earlier of October 1, 2018, or the effective date of the collective bargaining agreement that is contrary to the changes to the local law plan.

Municipal Police Officer Pension Plans: Definition of "Compensation" or "Salary"

The bill amends s. 185.02(4), F.S., regarding the definition of "compensation" or "salary." It provides that overtime may be limited before July 1, 2011, in a local law plan by the plan provisions. The provision currently provides that overtime may not be limited to less than 300 hours per officer per calendar year.

Miscellaneous Provisions in the Bill

The bill provides a statement of important state interest. It provides that a proper and legitimate state purpose is served, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

B. SECTION DIRECTORY:

Section 1 amends s. 175.021, F.S., revising the legislative declaration for firefighter pension plans.

Section 2 amends s. 175.032, F.S., revising definitions.

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

Section 4 amends s. 175.091, F.S., revising the method of creating and maintaining a firefighters' pension trust fund.

Section 5 amends s. 175.162, F.S., relating to requirements for retirement.

Section 6 amends s. 175.351, F.S., relating to a municipality or special fire control district that has its own retirement plan for firefighters.

Section 7 amends s. 185.01, F.S., revising the legislative declaration for police officer pension plans.

Section 8 amends s. 185.02, F.S., revising definitions.

Section 9 amends s. 185.06, F.S., conforming a cross-reference.

Section 10 amends s. 185.07, F.S., revising the method of creating and maintaining a police officers' retirement trust fund.

Section 11 amends s. 185.16, F.S., relating to requirements for retirement.

Section 12 amends s. 185.35, F.S., relating to a municipality that has its own retirement plan for police officers.

Section 13 provides a declaration of important state interest.

Section 14 provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have an indeterminate negative fiscal impact on state revenues. Certain provisions of the bill directing the expenditure of insurance premium tax revenues may offer some incentive for entities currently not offering firefighter or police officer pension plans to do so, which would reduce the amount of premium tax revenues deposited in the state's General Revenue fund. However, virtually all of the largest public employers already offer such plans, or are irrevocably participating in the Florida Retirement System, significantly mitigating any potential fiscal impact. A reasonable estimate of the number of, if any, entities that may decide to offer a plan as a result of the new provisions of the bill, is indeterminate, as is the impact of them doing so.

The bill redirects how premium tax revenues provided to local governments are to be used in funding their firefighter and police officer pension plans. The bill will have an indeterminate impact on local government plans.

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:

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.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 11, 2015, the Government Operations Subcommittee adopted a strike-all amendment and reported the bill favorable with committee substitute. The committee substitute:

- Revises the definition of "base premium tax revenues" to mean the revenues received during the 2013 calendar year, rather than the 1997 calendar year. For a municipality or special fire control district that did not receive premium tax revenues during 2013, the base premium tax revenues are those revenues received during the second calendar year of participation.
- Revises how insurance premium tax revenues must be used. It amends the default formula for the use of the insurance premium tax revenues if the parties cannot agree through mutual consent. Rather than four silos of revenue, the committee substitute provides for two silos.
- Maintains a two percent minimum pension plan multiplier, rather than 2.75 percent.

- Clarifies that only active members of the plan may participate and vote for purposes of mutual consent.

This analysis is drafted to the committee substitute as passed by the Government Operations Subcommittee.

1 A bill to be entitled
 2 An act relating to local government pension reform;
 3 amending s. 175.021, F.S.; requiring that firefighter
 4 pension plans meet the requirements of chapter 175,
 5 F.S., in order to receive certain insurance premium
 6 tax revenues; amending s. 175.032, F.S.; revising
 7 definitions to conform to changes made by the act and
 8 providing new definitions; amending s. 175.071, F.S.;
 9 conforming a cross-reference; amending s. 175.091,
 10 F.S.; revising the method of creating and maintaining
 11 a firefighters' pension trust fund; amending s.
 12 175.162, F.S.; deleting a provision basing the
 13 availability of additional benefits in a firefighter
 14 pension plan upon state funding; amending s. 175.351,
 15 F.S.; exempting certain firefighter pension plans of a
 16 municipality or special fire control district from
 17 meeting certain minimum benefits in order to
 18 participate in the distribution of a premium tax;
 19 redesignating the term "pension plan" as "retirement
 20 plan"; revising criteria governing the use of revenues
 21 of the premium tax; providing that the use of premium
 22 tax revenues may deviate from the requirements of
 23 chapter 175, F.S., under certain circumstances;
 24 revising the conditions for proposing the adoption of
 25 a pension plan or an amendment to a pension plan;
 26 requiring plan sponsors to have a defined contribution

27 | plan component in place by a certain date; authorizing
 28 | a municipality or special fire control district to
 29 | implement certain changes to a local law plan which
 30 | are contrary to chapter 175, F.S., for a limited time,
 31 | under certain circumstances; amending s. 185.01, F.S.;
 32 | requiring that police officer pension plans meet the
 33 | requirements of chapter 185, F.S., in order to receive
 34 | certain insurance premium tax revenues; amending s.
 35 | 185.02, F.S.; revising definitions to conform to
 36 | changes made by the act and providing new definitions;
 37 | revising applicability of the limitation on the amount
 38 | of overtime payments that may be used for pension
 39 | benefit calculations; amending s. 185.06, F.S.;
 40 | conforming a cross-reference; amending s. 185.07,
 41 | F.S.; revising the method of creating and maintaining
 42 | a police officers' retirement trust fund; amending s.
 43 | 185.16, F.S.; deleting a provision basing the
 44 | availability of additional benefits in a police
 45 | officer pension plan upon state funding; amending s.
 46 | 185.35, F.S.; exempting certain municipal police
 47 | officer pension plans from meeting certain minimum
 48 | benefits in order to participate in the distribution
 49 | of a premium tax; redesignating the term "pension
 50 | plan" as "retirement plan"; revising criteria
 51 | governing the use of revenues from the premium tax;
 52 | providing that the use of premium tax revenues may

53 deviate from the requirements of chapter 185, F.S.,
 54 under specified circumstances; revising the conditions
 55 for proposing the adoption of a pension plan or
 56 amendment to a pension plan; conforming a cross-
 57 reference; requiring plan sponsors to have a defined
 58 contribution plan component in place by a certain
 59 date; authorizing a municipality to implement certain
 60 changes to a local law plan which are contrary to
 61 chapter 185, F.S., for a limited time; providing a
 62 declaration of important state interest; providing an
 63 effective date.

64

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

66

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

69 175.021 Legislative declaration.—

70 (2) This chapter ~~hereby~~ establishes, for all municipal and
 71 special district pension plans existing ~~now or hereafter~~ under
 72 this chapter, including chapter plans and local law plans,
 73 minimum benefits and minimum standards for the operation and
 74 funding of such plans, hereinafter referred to as firefighters'
 75 pension trust funds, which must be met as a condition precedent
 76 to the plan or plan sponsor receiving a distribution of
 77 insurance premium tax revenues under s. 175.121. ~~The~~ Minimum
 78 benefits and minimum standards for each plan ~~set forth in this~~

79 ~~chapter~~ may not be diminished by local charter, ordinance, or
 80 resolution or by special act of the Legislature and may not, ~~nor~~
 81 ~~may the minimum benefits or minimum standards~~ be reduced or
 82 offset by any other local, state, or federal law that includes
 83 ~~may include~~ firefighters in its operation, except as provided
 84 under s. 112.65.

85 Section 2. Section 175.032, Florida Statutes, is amended
 86 to read:

87 175.032 Definitions.—For any municipality, special fire
 88 control district, chapter plan, local law municipality, local
 89 law special fire control district, or local law plan under this
 90 chapter, the term ~~following words and phrases have the following~~
 91 ~~meanings:~~

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

95 (2) ~~(1) (a)~~ "Average final compensation" for:

96 (a) A full-time firefighter means one-twelfth of the
 97 average annual compensation of the 5 best years of the last 10
 98 years of creditable service before ~~prior to~~ retirement,
 99 termination, or death, or the career average as a full-time
 100 firefighter since July 1, 1953, whichever is greater. A year is
 101 ~~shall be~~ 12 consecutive months or such other consecutive period
 102 of time as is used and consistently applied.

103 (b) ~~"Average final compensation" for~~ A volunteer
 104 firefighter means the average salary of the 5 best years of the

105 last 10 best contributing years before ~~prior to~~ change in status
 106 to a permanent full-time firefighter or retirement as a
 107 volunteer firefighter or the career average of a volunteer
 108 firefighter, since July 1, 1953, whichever is greater.

109 (3) "Base premium tax revenues" means:

110 (a) The revenues received by a municipality or special
 111 fire control district pursuant to s. 175.121 for the 2013
 112 calendar year; or

113 (b) For a municipality or special fire control district
 114 that did not receive premium tax revenues for the 2013 calendar
 115 year, the revenues received during the second calendar year of
 116 participation.

117 (4)+2) "Chapter plan" means a separate defined benefit
 118 pension plan for firefighters which incorporates by reference
 119 the provisions of this chapter and has been adopted by the
 120 governing body of a municipality or special district. Except as
 121 may be specifically authorized in this chapter, the provisions
 122 of a chapter plan may not differ from the plan provisions set
 123 forth in ss. 175.021-175.341 and ss. 175.361-175.401. Actuarial
 124 valuations of chapter plans shall be conducted by the division
 125 as provided by s. 175.261(1).

126 (5)+3) "Compensation" or "salary" means, for
 127 noncollectively bargained service earned before July 1, 2011, or
 128 for service earned under collective bargaining agreements in
 129 place before July 1, 2011, the fixed monthly remuneration paid a
 130 firefighter. If remuneration is based on actual services

131 rendered, as in the case of a volunteer firefighter, the term
 132 means the total cash remuneration received yearly for such
 133 services, prorated on a monthly basis. For noncollectively
 134 bargained service earned on or after July 1, 2011, or for
 135 service earned under collective bargaining agreements entered
 136 into on or after July 1, 2011, the term has the same meaning
 137 except that when calculating retirement benefits, up to 300
 138 hours per year in overtime compensation may be included as
 139 specified in the plan or collective bargaining agreement, but
 140 payments for accrued unused sick or annual leave may not be
 141 included.

142 (a) Any retirement trust fund or plan that meets the
 143 requirements of this chapter does not, solely by virtue of this
 144 subsection, reduce or diminish the monthly retirement income
 145 otherwise payable to each firefighter covered by the retirement
 146 trust fund or plan.

147 (b) The member's compensation or salary contributed as
 148 employee-elective salary reductions or deferrals to any salary
 149 reduction, deferred compensation, or tax-sheltered annuity
 150 program authorized under the Internal Revenue Code shall be
 151 deemed to be the compensation or salary the member would receive
 152 if he or she were not participating in such program and shall be
 153 treated as compensation for retirement purposes under this
 154 chapter.

155 (c) For ~~any~~ person who first becomes a member in any plan
 156 year beginning on or after January 1, 1996, compensation for

157 that plan year may not include any amounts in excess of the
 158 Internal Revenue Code s. 401(a)(17) limitation, as amended by
 159 the Omnibus Budget Reconciliation Act of 1993, which limitation
 160 of \$150,000 shall be adjusted as required by federal law for
 161 qualified government plans and ~~shall be~~ further adjusted for
 162 changes in the cost of living in the manner provided by Internal
 163 Revenue Code s. 401(a)(17)(B). For any person who first became a
 164 member before the first plan year beginning on or after January
 165 1, 1996, the limitation on compensation may not be less than the
 166 maximum compensation amount that was allowed to be taken into
 167 account under the plan in effect on July 1, 1993, which
 168 limitation shall be adjusted for changes in the cost of living
 169 since 1989 in the manner provided by Internal Revenue Code s.
 170 401(a)(17)(1991).

171 (6)~~(4)~~ "Creditable service" or "credited service" means
 172 the aggregate number of years of service~~7~~ and fractional parts
 173 of years of service~~7~~ of any firefighter, omitting intervening
 174 years and fractional parts of years when such firefighter may
 175 not have been employed by the municipality or special fire
 176 control district, subject to the following conditions:

177 (a) A ~~No~~ firefighter may not ~~will~~ receive credit for years
 178 or fractional parts of years of service if he or she has
 179 withdrawn his or her contributions to the fund for those years
 180 or fractional parts of years of service, unless the firefighter
 181 repays into the fund the amount he or she has withdrawn, plus
 182 interest determined by the board. The member has ~~shall have~~ at

183 | least 90 days after his or her reemployment to make repayment.

184 | (b) A firefighter may voluntarily leave his or her
 185 | contributions in the fund for ~~a period of~~ 5 years after leaving
 186 | the employ of the fire department, pending the possibility of
 187 | being rehired by the same department, without losing credit for
 188 | the time he or she has participated actively as a firefighter.
 189 | If the firefighter is not reemployed as a firefighter, with the
 190 | same department, within 5 years, his or her contributions shall
 191 | be returned without interest.

192 | (c) Credited service under this chapter shall be provided
 193 | only for service as a firefighter, ~~as defined in subsection (8),~~
 194 | or for military service and does not include credit for any
 195 | other type of service. A municipality ~~may,~~ by local ordinance,
 196 | or a special fire control district ~~may,~~ by resolution, may
 197 | provide for the purchase of credit for military service prior to
 198 | employment as well as for prior service as a firefighter for
 199 | some other employer as long as a firefighter is not entitled to
 200 | receive a benefit for such prior service ~~as a firefighter~~. For
 201 | purposes of determining credit for prior service ~~as a~~
 202 | ~~firefighter~~, in addition to service as a firefighter in this
 203 | state, credit may be given for federal, other state, or county
 204 | service if the prior service is recognized by the Division of
 205 | State Fire Marshal as provided in ~~under~~ chapter 633, or the
 206 | firefighter provides proof to the board of trustees that his or
 207 | her service is equivalent to the service required to meet the
 208 | definition of a firefighter under subsection (11) ~~(8)~~.

209 (d) In determining the creditable service of any
 210 firefighter, credit for up to 5 years of the time spent in the
 211 military service of the Armed Forces of the United States shall
 212 be added to the years of actual service if:

213 1. The firefighter is in the active employ of an employer
 214 immediately before ~~prior to~~ such service and leaves a position,
 215 other than a temporary position, for the purpose of voluntary or
 216 involuntary service in the Armed Forces of the United States.

217 2. The firefighter is entitled to reemployment under ~~the~~
 218 ~~provisions of~~ the Uniformed Services Employment and Reemployment
 219 Rights Act.

220 3. The firefighter returns to his or her employment as a
 221 firefighter of the municipality or special fire control district
 222 within 1 year after ~~from~~ the date of release from such active
 223 service.

224 ~~(7)(5)~~ "Deferred Retirement Option Plan" or "DROP" means a
 225 local law plan retirement option in which a firefighter may
 226 elect to participate. A firefighter may retire for all purposes
 227 of the plan and defer receipt of retirement benefits into a DROP
 228 account while continuing employment with his or her employer.
 229 However, a firefighter who enters the DROP and who is otherwise
 230 eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from
 231 participation or continued participation ~~participating, or~~
 232 ~~continuing to participate,~~ in a supplemental plan in existence
 233 on, or created after, March 12, 1999 ~~the effective date of this~~
 234 ~~act.~~

235 (8) "Defined contribution plan" means the component of a
 236 local law plan, as provided in s. 175.351(1), to which deposits,
 237 if any, are made to provide benefits for firefighters, or for
 238 firefighters and police officers if both are included. Such
 239 component is an element of a local law plan and exists in
 240 conjunction with the defined benefit component that meets
 241 minimum benefits and minimum standards. The retirement benefits,
 242 if any, of the defined contribution plan shall be provided
 243 through individual member accounts in accordance with the
 244 applicable provisions of the Internal Revenue Code and related
 245 regulations and are limited to the contributions, if any, made
 246 into each member's account and the actual accumulated earnings,
 247 net of expenses, earned on the member's account.

248 (9)~~(6)~~ "Division" means the Division of Retirement of the
 249 Department of Management Services.

250 (10)~~(7)~~ "Enrolled actuary" means an actuary who is
 251 enrolled under Subtitle C of Title III of the Employee
 252 Retirement Income Security Act of 1974 and who is a member of
 253 the Society of Actuaries or the American Academy of Actuaries.

254 (11) (a)~~(8) (a)~~ "Firefighter" means a person employed solely
 255 by a constituted fire department of any municipality or special
 256 fire control district who is certified as a firefighter as a
 257 condition of employment in accordance with s. 633.408 and whose
 258 duty it is to extinguish fires, to protect life, or to protect
 259 property. The term includes all certified, supervisory, and
 260 command personnel whose duties include, in whole or in part, the

261 supervision, training, guidance, and management responsibilities
 262 of full-time firefighters, part-time firefighters, or auxiliary
 263 firefighters but does not include part-time firefighters or
 264 auxiliary firefighters. However, for purposes of this chapter
 265 only, the term also includes public safety officers who are
 266 responsible for performing both police and fire services, who
 267 are certified as police officers or firefighters, and who are
 268 certified by their employers to the Chief Financial Officer as
 269 participating in this chapter before October 1, 1979. Effective
 270 October 1, 1979, public safety officers who have not been
 271 certified as participating in this chapter are considered police
 272 officers for retirement purposes and are eligible to participate
 273 in chapter 185. Any plan may provide that the fire chief has an
 274 option to participate, ~~or not,~~ in that plan.

275 (b) "Volunteer firefighter" means any person whose name is
 276 carried on the active membership roll of a constituted volunteer
 277 fire department or a combination of a paid and volunteer fire
 278 department of any municipality or special fire control district
 279 and whose duty it is to extinguish fires, to protect life, and
 280 to protect property. Compensation for services rendered by a
 281 volunteer firefighter does ~~shall~~ not disqualify him or her as a
 282 volunteer. A person may ~~shall~~ not be disqualified as a volunteer
 283 firefighter solely because he or she has other gainful
 284 employment. Any person who volunteers assistance at a fire but
 285 is not an active member of a department described herein is not
 286 a volunteer firefighter within the meaning of this paragraph.

287 (12)~~(9)~~ "Firefighters' Pension Trust Fund" means a trust
 288 fund, by whatever name known, as provided under s. 175.041, for
 289 the purpose of assisting municipalities and special fire control
 290 districts in establishing and maintaining a retirement plan for
 291 firefighters.

292 (13)~~(10)~~ "Local law municipality" means ~~is~~ any
 293 municipality in which ~~there exists~~ a local law plan exists.

294 (14)~~(11)~~ "Local law plan" means a retirement defined
 295 benefit pension plan, which includes both a defined benefit plan
 296 component and a defined contribution plan component, for
 297 firefighters, or for firefighters and ~~or~~ police officers if both
 298 are ~~where~~ included, as described in s. 175.351, established by
 299 municipal ordinance, special district resolution, or special act
 300 of the Legislature, which enactment sets forth all plan
 301 provisions. Local law plan provisions may vary from the
 302 provisions of this chapter if, ~~provided that required~~ minimum
 303 benefits and minimum standards are met. However, any such
 304 variance must ~~shall~~ provide a greater benefit for firefighters.
 305 Actuarial valuations of local law plans shall be conducted by an
 306 enrolled actuary as provided in s. 175.261(2).

307 (15)~~(12)~~ "Local law special fire control district" means
 308 ~~is~~ any special fire control district in which ~~there exists~~ a
 309 local law plan exists.

310 (16) "Minimum benefits" means the benefits specified in
 311 ss. 175.021-175.341 and ss. 175.361-175.401.

312 (17) "Minimum standards" means the standards specified in

313 ss. 175.021-175.401.

314 (18)~~(13)~~ "Property insurance" means property insurance as
 315 defined in s. 624.604 and covers real and personal property
 316 within the corporate limits of a any municipality, or within the
 317 boundaries of a any special fire control district, within the
 318 state. The term "multiple peril" means a combination or package
 319 policy that includes both property and casualty coverage for a
 320 single premium.

321 (19)~~(14)~~ "Retiree" or "retired firefighter" means a
 322 firefighter who has entered retirement status. For the purposes
 323 of a plan that includes a Deferred Retirement Option Plan
 324 (DROP), a firefighter who enters the DROP is ~~shall be~~ considered
 325 a retiree for all purposes of the plan. However, a firefighter
 326 who enters the DROP and who is otherwise eligible to participate
 327 may shall not ~~thereby~~ be precluded from participation or
 328 continued participation ~~participating, or continuing to~~
 329 ~~participate,~~ in a supplemental plan in existence on, or created
 330 after, March 12, 1999 ~~the effective date of this act.~~

331 (20)~~(15)~~ "Retirement" means a firefighter's separation
 332 from municipal ~~city~~ or fire district employment as a firefighter
 333 with immediate eligibility for ~~receipt of~~ benefits under the
 334 plan. For purposes of a plan that includes a Deferred Retirement
 335 Option Plan (DROP), "retirement" means the date a firefighter
 336 enters the DROP.

337 (21) "Special act plan" means a plan subject to the
 338 provisions of this chapter which was created by an act of the

339 Legislature and continues to require an act of the Legislature
 340 to alter plan benefits.

341 (22) "Special benefits" means benefits provided in a
 342 defined contribution plan for firefighters.

343 (23)~~(16)~~ "Special fire control district" means a special
 344 district, as defined in s. 189.012, established for the purposes
 345 of extinguishing fires, protecting life, and protecting property
 346 within the incorporated or unincorporated portions of a any
 347 county or combination of counties, or within any combination of
 348 incorporated and unincorporated portions of a any county or
 349 combination of counties. The term does not include any dependent
 350 or independent special district, as those terms are defined in
 351 s. 189.012, the employees of which are members of the Florida
 352 Retirement System pursuant to s. 121.051(1) or (2).

353 (24)~~(17)~~ "Supplemental plan" means a plan to which
 354 deposits are made to provide special ~~extra~~ benefits for
 355 firefighters, or for firefighters and police officers if both
 356 are ~~where~~ included ~~under this chapter~~. Such a plan is an element
 357 of a local law plan and exists in conjunction with a defined
 358 benefit component ~~plan~~ that meets ~~the~~ minimum benefits and
 359 minimum standards ~~of this chapter~~. Any supplemental plan in
 360 existence on March 1, 2015, shall be deemed to be a defined
 361 contribution plan in compliance with s. 175.351(6).

362 (25)~~(18)~~ "Supplemental plan municipality" means a any
 363 local law municipality in which ~~there existed~~ a supplemental
 364 plan existed, ~~of any type or nature~~, as of December 1, 2000.

365 Section 3. Subsection (7) of section 175.071, Florida
 366 Statutes, is amended to read:

367 175.071 General powers and duties of board of trustees.—
 368 For any municipality, special fire control district, chapter
 369 plan, local law municipality, local law special fire control
 370 district, or local law plan under this chapter:

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

373 (a) Employ independent legal counsel at the pension fund's
 374 expense.

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

377 (c) Employ such independent professional, technical, or
 378 other advisers as it deems necessary at the pension fund's
 379 expense.

380

381 If the board chooses to use the municipality's or special
 382 district's legal counsel or actuary, or chooses to use any of
 383 the municipality's or special district's other professional,
 384 technical, or other advisers, it must do so only under terms and
 385 conditions acceptable to the board.

386 Section 4. Paragraph (d) of subsection (1) of section
 387 175.091, Florida Statutes, is amended to read:

388 175.091 Creation and maintenance of fund.—For any
 389 municipality, special fire control district, chapter plan, local
 390 law municipality, local law special fire control district, or

391 local law plan under this chapter:

392 (1) The firefighters' pension trust fund in each
 393 municipality and ~~in each~~ special fire control district shall be
 394 created and maintained in the following manner:

395 (d) By mandatory payment by the municipality or special
 396 fire control district of a sum equal to the normal cost of and
 397 the amount required to fund any actuarial deficiency shown by an
 398 actuarial valuation conducted under ~~as provided in~~ part VII of
 399 chapter 112 after taking into account the amounts described in
 400 paragraphs (b), (c), (e), (f), and (g) and the tax proceeds
 401 described in paragraph (a) which are used to fund defined
 402 benefit plan benefits.

403

404 Nothing in this section shall be construed to require adjustment
 405 of member contribution rates in effect on the date this act
 406 becomes a law, including rates that exceed 5 percent of salary,
 407 provided that such rates are at least one-half of 1 percent of
 408 salary.

409 Section 5. Paragraph (a) of subsection (2) of section
 410 175.162, Florida Statutes, is amended to read:

411 175.162 Requirements for retirement.—For any municipality,
 412 special fire control district, chapter plan, local law
 413 municipality, local law special fire control district, or local
 414 law plan under this chapter, any firefighter who completes 10 or
 415 more years of creditable service as a firefighter and attains
 416 age 55, or completes 25 years of creditable service as a

417 firefighter and attains age 52, and who for such minimum period
 418 has been a member of the firefighters' pension trust fund
 419 operating under a chapter plan or local law plan, is eligible
 420 for normal retirement benefits. Normal retirement under the plan
 421 is retirement from the service of the municipality or special
 422 fire control district on or after the normal retirement date. In
 423 such event, payment of retirement income will be governed by the
 424 following provisions of this section:

425 (2)(a) The amount of monthly retirement income payable to
 426 a full-time firefighter who retires on or after his or her
 427 normal retirement date shall be an amount equal to the number of
 428 his or her years of credited service multiplied by 2 percent of
 429 his or her average final compensation as a full-time
 430 firefighter. ~~However, if current state contributions pursuant to~~
 431 ~~this chapter are not adequate to fund the additional benefits to~~
 432 ~~meet the minimum requirements in this chapter, only such~~
 433 ~~incremental increases shall be required as state moneys are~~
 434 ~~adequate to provide. Such increments shall be provided as state~~
 435 ~~moneys become available.~~

436 Section 6. Section 175.351, Florida Statutes, is amended
 437 to read:

438 175.351 Municipalities and special fire control districts
 439 that have ~~having~~ their own retirement ~~pension~~ plans for
 440 firefighters. ~~For any municipality, special fire control~~
 441 ~~district, local law municipality, local law special fire control~~
 442 ~~district, or local law plan under this chapter, In order for a~~

443 municipality or municipalities and special fire control district
 444 that has its districts with their own retirement plan pension
 445 plans for firefighters, or for firefighters and police officers
 446 if both are included, to participate in the distribution of the
 447 tax fund established under pursuant to s. 175.101, a local law
 448 plan plans must meet the minimum benefits and minimum standards,
 449 except as provided in the mutual consent provisions in paragraph
 450 (1)(d) with respect to the minimum benefits not met as of
 451 October 1, 2012 set forth in this chapter.

452 (1) If a municipality has a retirement pension plan for
 453 firefighters, or a pension plan for firefighters and police
 454 officers if both are included, which in the opinion of the
 455 division meets ~~the~~ minimum benefits and minimum standards ~~set~~
 456 ~~forth in this chapter,~~ the board of trustees of the retirement
 457 pension plan must, ~~as approved by a majority of firefighters of~~
 458 ~~the municipality, may:~~

459 ~~(a)~~ place the income from the premium tax in s. 175.101 in
 460 such pension plan for the sole and exclusive use of its
 461 firefighters, or for firefighters and police officers if both
 462 are included, where it shall become an integral part of that
 463 pension plan and ~~shall~~ be used to fund benefits as provided
 464 herein. Effective October 1, 2015, for noncollectively bargained
 465 service or upon entering into a collective bargaining agreement
 466 on or after July 1, 2015:

467 (a) The base premium tax revenues must be used to fund
 468 minimum benefits or other retirement benefits in excess of the

469 minimum benefits as determined by the municipality or special
 470 fire control district.

471 (b) Fifty percent of additional premium tax revenues must
 472 be used to fund minimum benefits or other retirement benefits in
 473 excess of the minimum benefits as determined by the municipality
 474 or special fire control district, and 50 percent must be placed
 475 in a defined contribution plan to fund special benefits. ~~to pay~~
 476 extra benefits to the firefighters included in that pension
 477 plan; or

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

482 (c) For a plan that did not receive premium tax revenues
 483 for the 2013 calendar year, the revenues received by a
 484 municipality or special fire control district pursuant to s.
 485 175.121 based upon the tax collections for the first and second
 486 year of participation must be used to fund minimum benefits or
 487 other retirement benefits in excess of the minimum benefits as
 488 determined by the municipality or special fire control district.

489 (d) Notwithstanding paragraphs (a)-(c), the use of premium
 490 tax revenues, including any accumulations of additional premium
 491 tax revenues which have not been allocated to fund benefits in
 492 excess of minimum benefits, may deviate from the provisions of
 493 this subsection by mutual consent of the members' collective
 494 bargaining representative or, if there is no representative, by

495 a majority of the active firefighter members of the fund, and by
496 consent of the municipality or special fire control district,
497 provided that the plan continues to meet minimum benefits and
498 minimum standards; however, a plan that operates pursuant to
499 this paragraph which does not meet minimum benefits as of
500 October 1, 2012, may continue to provide the benefits that do
501 not meet the minimum benefits at the same level as was provided
502 as of October 1, 2012, and all other benefit levels must
503 continue to meet the minimum benefits. Such mutually agreed
504 deviation must continue until modified or revoked by subsequent
505 mutual consent of the members' collective bargaining
506 representative or, if none, by a majority of the active
507 firefighter members of the fund, and the municipality or special
508 fire control district. An existing arrangement for the use of
509 premium tax revenues contained within a special act plan or a
510 plan within a supplemental plan municipality is considered, as
511 of July 1, 2015, to be a deviation for which mutual consent has
512 been granted.

513 (2) The premium tax provided by this chapter must ~~shall in~~
514 ~~all cases~~ be used in its entirety to provide retirement ~~extra~~
515 benefits to firefighters, or to firefighters and police officers
516 if both are included. ~~However, local law plans in effect on~~
517 ~~October 1, 1998, must comply with the minimum benefit provisions~~
518 ~~of this chapter only to the extent that additional premium tax~~
519 ~~revenues become available to incrementally fund the cost of such~~
520 ~~compliance as provided in s. 175.162(2)(a). If a plan is in~~

521 ~~compliance with such minimum benefit provisions, as subsequent~~
 522 ~~additional premium tax revenues become available, they must be~~
 523 ~~used to provide extra benefits.~~ Local law plans created by
 524 special act before May 27, 1939, are deemed to comply with this
 525 chapter. ~~For the purpose of this chapter, the term:~~

526 ~~(a) "Additional premium tax revenues" means revenues~~
 527 ~~received by a municipality or special fire control district~~
 528 ~~pursuant to s. 175.121 which exceed that amount received for~~
 529 ~~calendar year 1997.~~

530 ~~(b) "Extra benefits" means benefits in addition to or~~
 531 ~~greater than those provided to general employees of the~~
 532 ~~municipality and in addition to those in existence for~~
 533 ~~firefighters on March 12, 1999.~~

534 (3) A retirement plan or amendment to a retirement plan
 535 may not be proposed for adoption unless the proposed plan or
 536 amendment contains an actuarial estimate of the costs involved.
 537 Such proposed plan or proposed plan change may not be adopted
 538 without the approval of the municipality, special fire control
 539 district, or, where required ~~permitted~~, the Legislature. Copies
 540 of the proposed plan or proposed plan change and the actuarial
 541 impact statement of the proposed plan or proposed plan change
 542 shall be furnished to the division before the last public
 543 hearing on the proposal is held ~~thereon~~. Such statement must
 544 also indicate whether the proposed plan or proposed plan change
 545 is in compliance with s. 14, Art. X of the State Constitution
 546 and those provisions of part VII of chapter 112 which are not

547 expressly provided in this chapter. Notwithstanding any other
 548 provision, only those local law plans created by special act of
 549 legislation before May 27, 1939, are deemed to meet ~~the~~ minimum
 550 benefits and minimum standards ~~only in this chapter.~~

551 (4) Notwithstanding any other provision, with respect to
 552 any supplemental plan municipality:

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

556 (b) Section 175.061(1)(b) does not apply, and a local law
 557 plan and a supplemental plan shall continue to be administered
 558 by a board or boards of trustees numbered, constituted, and
 559 selected as the board or boards were numbered, constituted, and
 560 selected on December 1, 2000.

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

563 (5) The retirement plan setting forth the benefits and the
 564 trust agreement, if any, covering the duties and
 565 responsibilities of the trustees and the regulations of the
 566 investment of funds must be in writing, and copies made
 567 available to the participants and to the general public.

568 (6) In addition to the defined benefit component of the
 569 local law plan, each plan sponsor must have a defined
 570 contribution plan component within the local law plan by October
 571 1, 2015, for noncollectively bargained service, upon entering
 572 into a collective bargaining agreement on or after July 1, 2015,

573 or upon the creation date of a new participating plan. Depending
 574 upon the application of subsection (1), a defined contribution
 575 component may or may not receive any funding.

576 (7) Notwithstanding any other provision of this chapter, a
 577 municipality or special fire control district that has
 578 implemented or proposed changes to a local law plan based on the
 579 municipality's or district's reliance on an interpretation of
 580 this chapter by the Department of Management Services on or
 581 after August 14, 2012, and before March 4, 2015, may continue
 582 the implemented changes or continue to implement proposed
 583 changes. Such reliance must be evidenced by a written collective
 584 bargaining proposal or agreement, or formal correspondence
 585 between the municipality or district and the Department of
 586 Management Services which describes the specific changes to the
 587 local law plan, with the initial proposal, agreement, or
 588 correspondence from the municipality or district dated before
 589 March 4, 2015. Changes to the local law plan which are otherwise
 590 contrary to minimum benefits and minimum standards may continue
 591 in effect until the earlier of October 1, 2018, or the effective
 592 date of a collective bargaining agreement that is contrary to
 593 the changes to the local law plan.

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

596 185.01 Legislative declaration.—

597 (2) This chapter hereby establishes, for all municipal
 598 pension plans ~~now or hereinafter~~ provided for under this

599 chapter, including chapter plans and local law plans, minimum
 600 benefits and minimum standards for the operation and funding of
 601 such plans, hereinafter referred to as municipal police
 602 officers' retirement trust funds, which must be met as
 603 conditions precedent to the plans or plan sponsors receiving a
 604 distribution of insurance premium tax revenues under s. 185.10.
 605 ~~The~~ Minimum benefits and minimum standards for each plan ~~set~~
 606 ~~forth in this chapter~~ may not be diminished by local ordinance
 607 or by special act of the Legislature and may not, ~~nor may the~~
 608 ~~minimum benefits or minimum standards~~ be reduced or offset by
 609 any other local, state, or federal plan that includes ~~may~~
 610 ~~include~~ police officers in its operation, except as provided
 611 under s. 112.65.

612 Section 8. Section 185.02, Florida Statutes, is amended to
 613 read:

614 185.02 Definitions.—For any municipality, chapter plan,
 615 local law municipality, or local law plan under this chapter,
 616 the term ~~following words and phrases as used in this chapter~~
 617 ~~shall have the following meanings, unless a different meaning is~~
 618 ~~plainly required by the context:~~

619 (1) "Additional premium tax revenues" means revenues
 620 received by a municipality pursuant to s. 185.10 which exceed
 621 base premium tax revenues.

622 (2) ~~(1)~~ "Average final compensation" means one-twelfth of
 623 the average annual compensation of the 5 best years of the last
 624 10 years of creditable service before ~~prior to~~ retirement,

625 termination, or death.

626 (3) "Base premium tax revenues" means:

627 (a) The revenues received by a municipality pursuant to s.
 628 185.10 for the 2013 calendar year; or

629 (b) For a municipality that did not receive premium tax
 630 revenues for the 2013 calendar year, the revenues received
 631 during the second calendar year of participation.

632 (4)+2) "Casualty insurance" means automobile public
 633 liability and property damage insurance to be applied at the
 634 place of residence of the owner, or if the subject is a
 635 commercial vehicle, to be applied at the place of business of
 636 the owner; automobile collision insurance; fidelity bonds;
 637 burglary and theft insurance; and plate glass insurance. The
 638 term "multiple peril" means a combination or package policy that
 639 includes both property coverage and casualty coverage for a
 640 single premium.

641 (5)+3) "Chapter plan" means a separate defined benefit
 642 pension plan for police officers which incorporates by reference
 643 the provisions of this chapter and has been adopted by the
 644 governing body of a municipality as provided in s. 185.08.
 645 Except as ~~may be~~ specifically authorized in this chapter, the
 646 provisions of a chapter plan may not differ from the plan
 647 provisions set forth in ss. 185.01-185.341 and ss. 185.37-
 648 185.39. Actuarial valuations of chapter plans shall be conducted
 649 by the division as provided by s. 185.221(1)(b).

650 (6)+4) "Compensation" or "salary" means, for

651 noncollectively bargained service earned before July 1, 2011, or
 652 for service earned under collective bargaining agreements in
 653 place before July 1, 2011, the total cash remuneration including
 654 "overtime" paid by the primary employer to a police officer for
 655 services rendered, but not including any payments for extra duty
 656 or special detail work performed on behalf of a second party
 657 employer. Overtime may be limited before July 1, 2011, in a
 658 local law plan by the plan provisions ~~A local law plan may limit~~
 659 ~~the amount of overtime payments which can be used for retirement~~
 660 ~~benefit calculation purposes; however, such overtime limit may~~
 661 ~~not be less than 300 hours per officer per calendar year.~~ For
 662 noncollectively bargained service earned on or after July 1,
 663 2011, or for service earned under collective bargaining
 664 agreements entered into on or after July 1, 2011, the term has
 665 the same meaning except that when calculating retirement
 666 benefits, up to 300 hours per year in overtime compensation may
 667 be included as specified in the plan or collective bargaining
 668 agreement, but payments for accrued unused sick or annual leave
 669 may not be included.

670 (a) Any retirement trust fund or plan that meets the
 671 requirements of this chapter does not, solely by virtue of this
 672 subsection, reduce or diminish the monthly retirement income
 673 otherwise payable to each police officer covered by the
 674 retirement trust fund or plan.

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

677 reduction, deferred compensation, or tax-sheltered annuity
 678 program authorized under the Internal Revenue Code shall be
 679 deemed to be the compensation or salary the member would receive
 680 if he or she were not participating in such program and shall be
 681 treated as compensation for retirement purposes under this
 682 chapter.

683 (c) For any person who first becomes a member in any plan
 684 year beginning on or after January 1, 1996, compensation for
 685 that plan year may not include any amounts in excess of the
 686 Internal Revenue Code s. 401(a)(17) limitation, as amended by
 687 the Omnibus Budget Reconciliation Act of 1993, which limitation
 688 of \$150,000 shall be adjusted as required by federal law for
 689 qualified government plans and ~~shall be~~ further adjusted for
 690 changes in the cost of living in the manner provided by Internal
 691 Revenue Code s. 401(a)(17)(B). For any person who first became a
 692 member before the first plan year beginning on or after January
 693 1, 1996, the limitation on compensation may not be less than the
 694 maximum compensation amount that was allowed to be taken into
 695 account under the plan ~~as~~ in effect on July 1, 1993, which
 696 limitation shall be adjusted for changes in the cost of living
 697 since 1989 in the manner provided by Internal Revenue Code s.
 698 401(a)(17)(1991).

699 (7)~~(5)~~ "Creditable service" or "credited service" means
 700 the aggregate number of years of service and fractional parts of
 701 years of service of any police officer, omitting intervening
 702 years and fractional parts of years when such police officer may

703 not have been employed by the municipality subject to the
 704 following conditions:

705 (a) A ~~No~~ police officer may not ~~will~~ receive credit for
 706 years or fractional parts of years of service if he or she has
 707 withdrawn his or her contributions to the fund for those years
 708 or fractional parts of years of service, unless the police
 709 officer repays into the fund the amount he or she has withdrawn,
 710 plus interest as determined by the board. The member has ~~shall~~
 711 ~~have~~ at least 90 days after his or her reemployment to make
 712 repayment.

713 (b) A police officer may voluntarily leave his or her
 714 contributions in the fund for ~~a period of~~ 5 years after leaving
 715 the employ of the police department, pending the possibility of
 716 his or her being rehired by the same department, without losing
 717 credit for the time he or she has participated actively as a
 718 police officer. If he or she is not reemployed as a police
 719 officer with the same department within 5 years, his or her
 720 contributions shall be returned ~~to him or her~~ without interest.

721 (c) Credited service under this chapter shall be provided
 722 only for service as a police officer, ~~as defined in subsection~~
 723 ~~(11)~~, or for military service and may not include credit for any
 724 other type of service. A municipality ~~may~~, by local ordinance,
 725 may provide for the purchase of credit for military service
 726 occurring before employment as well as prior service as a police
 727 officer for some other employer as long as the police officer is
 728 not entitled to receive a benefit for such ~~other~~ prior service

729 ~~as a police officer.~~ For purposes of determining credit for
 730 prior service, in addition to service as a police officer in
 731 this state, credit may be given for federal, other state, or
 732 county service as long as such service is recognized by the
 733 Criminal Justice Standards and Training Commission within the
 734 Department of Law Enforcement as provided in ~~under~~ chapter 943
 735 or the police officer provides proof to the board of trustees
 736 that such service is equivalent to the service required to meet
 737 the definition of a police officer under subsection (16) ~~(11)~~.

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

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

746 2. The police officer is entitled to reemployment under
 747 ~~the provisions of~~ the Uniformed Services Employment and
 748 Reemployment Rights Act.

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

752 (8) ~~(6)~~ "Deferred Retirement Option Plan" or "DROP" means a
 753 local law plan retirement option in which a police officer may
 754 elect to participate. A police officer may retire for all

755 purposes of the plan and defer receipt of retirement benefits
 756 into a DROP account while continuing employment with his or her
 757 employer. However, a police officer who enters the DROP and who
 758 is otherwise eligible to participate may ~~shall~~ not ~~thereby~~ be
 759 precluded from participation or continued participation
 760 ~~participating, or continuing to participate,~~ in a supplemental
 761 plan in existence on, or created after, March 12, 1999 ~~the~~
 762 ~~effective date of this act.~~

763 (9) "Defined contribution plan" means the component of a
 764 local law plan, as provided in s. 185.35(1), to which deposits,
 765 if any, are made to provide benefits for police officers, or for
 766 police officers and firefighters if both are included. Such
 767 component is an element of a local law plan and exists in
 768 conjunction with the defined benefit component that meets
 769 minimum benefits and minimum standards. The retirement benefits,
 770 if any, of the defined contribution plan shall be provided
 771 through individual member accounts in accordance with the
 772 applicable provisions of the Internal Revenue Code and related
 773 regulations and are limited to the contributions, if any, made
 774 into each member's account and the actual accumulated earnings,
 775 net of expenses, earned on the member's account.

776 (10)-(7) "Division" means the Division of Retirement of the
 777 Department of Management Services.

778 (11)-(8) "Enrolled actuary" means an actuary who is
 779 enrolled under Subtitle C of Title III of the Employee
 780 Retirement Income Security Act of 1974 and who is a member of

781 the Society of Actuaries or the American Academy of Actuaries.

782 (12)~~(9)~~ "Local law municipality" means ~~is~~ any municipality
783 in which ~~there exists~~ a local law plan exists.

784 (13)~~(10)~~ "Local law plan" means a retirement ~~defined~~
785 benefit pension plan, that includes both a defined benefit plan
786 component and a defined contribution plan component, for police
787 officers, or for police officers and firefighters if both are
788 ~~where~~ included, as described in s. 185.35, established by
789 municipal ordinance or special act of the Legislature, which
790 ~~enactment~~ sets forth all plan provisions. Local law plan
791 provisions may vary from the provisions of this chapter if
792 ~~provided that required~~ minimum benefits and minimum standards
793 are met. However, any such variance must ~~shall~~ provide a greater
794 benefit for police officers. Actuarial valuations of local law
795 plans shall be conducted by an enrolled actuary as provided in
796 s. 185.221(2)(b).

797 (14) "Minimum benefits" means the benefits specified in
798 ss. 185.01-185.341 and ss. 185.37-185.50.

799 (15) "Minimum standards" means the standards specified in
800 ss. 185.01-185.50.

801 (16)~~(11)~~ "Police officer" means any person who is elected,
802 appointed, or employed full time by a ~~any~~ municipality, who is
803 certified or required to be certified as a law enforcement
804 officer in compliance with s. 943.1395, who is vested with
805 authority to bear arms and make arrests, and whose primary
806 responsibility is the prevention and detection of crime or the

807 enforcement of the penal, criminal, traffic, or highway laws of
 808 the state. The term ~~This definition~~ includes all certified
 809 supervisory and command personnel whose duties include, in whole
 810 or in part, the supervision, training, guidance, and management
 811 responsibilities of full-time law enforcement officers, part-
 812 time law enforcement officers, or auxiliary law enforcement
 813 officers, but does not include part-time law enforcement
 814 officers or auxiliary law enforcement officers as those terms
 815 ~~the same~~ are defined in s. 943.10(6) and (8), respectively. For
 816 the purposes of this chapter only, the term also includes
 817 ~~"police officer"~~ also shall include a public safety officer who
 818 is responsible for performing both police and fire services. Any
 819 plan may provide that the police chief shall have an option to
 820 participate, ~~or not,~~ in that plan.

821 (17) ~~(12)~~ "Police Officers' Retirement Trust Fund" means a
 822 trust fund, by whatever name known, as provided under s. 185.03
 823 for the purpose of assisting municipalities in establishing and
 824 maintaining a retirement plan for police officers.

825 (18) ~~(13)~~ "Retiree" or "retired police officer" means a
 826 police officer who has entered retirement status. For the
 827 purposes of a plan that includes a Deferred Retirement Option
 828 Plan (DROP), a police officer who enters the DROP is ~~shall be~~
 829 considered a retiree for all purposes of the plan. However, a
 830 police officer who enters the DROP and who is otherwise eligible
 831 to participate may ~~shall not thereby~~ be precluded from
 832 participation or continued participation ~~participating, or~~

833 ~~continuing to participate,~~ in a supplemental plan in existence
 834 on, or created after, March 12, 1999 ~~the effective date of this~~
 835 ~~act.~~

836 (19) ~~(14)~~ "Retirement" means a police officer's separation
 837 from municipal ~~city~~ employment as a police officer with
 838 immediate eligibility for ~~receipt of~~ benefits under the plan.
 839 For purposes of a plan that includes a Deferred Retirement
 840 Option Plan (DROP), "retirement" means the date a police officer
 841 enters the DROP.

842 (20) "Special act plan" means a plan subject to the
 843 provisions of this chapter which was created by an act of the
 844 Legislature and continues to require an act of the Legislature
 845 to alter plan benefits.

846 (21) "Special benefits" means benefits provided in a
 847 defined contribution plan for police officers.

848 (22) ~~(15)~~ "Supplemental plan" means a plan to which
 849 deposits of the premium tax moneys as provided in s. 185.08 are
 850 made to provide special ~~extra~~ benefits to police officers, or
 851 police officers and firefighters if both are ~~where~~ included,
 852 ~~under this chapter.~~ Such a plan is an element of a local law
 853 plan and exists in conjunction with a defined benefit component
 854 plan that meets ~~the~~ minimum benefits and minimum standards ~~of~~
 855 this chapter. Any supplemental plan in existence on March 1,
 856 2015, shall be deemed to be a defined contribution plan in
 857 compliance with s. 185.35(6).

858 (23) ~~(16)~~ "Supplemental plan municipality" means a ~~any~~

859 local law municipality in which ~~there existed~~ a supplemental
 860 plan existed as of December 1, 2000.

861 Section 9. Subsection (6) of section 185.06, Florida
 862 Statutes, is amended to read:

863 185.06 General powers and duties of board of trustees.—For
 864 any municipality, chapter plan, local law municipality, or local
 865 law plan under this chapter:

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

868 (a) Employ independent legal counsel at the pension fund's
 869 expense.

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

872 (c) Employ such independent professional, technical, or
 873 other advisers as it deems necessary at the pension fund's
 874 expense.

875
 876 If the board chooses to use the municipality's or special
 877 district's legal counsel or actuary, or chooses to use any of
 878 the municipality's other professional, technical, or other
 879 advisers, it must do so only under terms and conditions
 880 acceptable to the board.

881 Section 10. Paragraph (d) of subsection (1) of section
 882 185.07, Florida Statutes, is amended to read:

883 185.07 Creation and maintenance of fund.—For any
 884 municipality, chapter plan, local law municipality, or local law

885 plan under this chapter:

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

889 (d) By payment by the municipality or other sources of a
 890 sum equal to the normal cost and the amount required to fund any
 891 actuarial deficiency shown by an actuarial valuation conducted
 892 under as provided in part VII of chapter 112 after taking into
 893 account the amounts described in paragraphs (b), (c), (e), (f),
 894 and (g) and the tax proceeds described in paragraph (a) which
 895 are used to fund defined benefit plan benefits.

896
 897 Nothing in this section shall be construed to require adjustment
 898 of member contribution rates in effect on the date this act
 899 becomes a law, including rates that exceed 5 percent of salary,
 900 provided that such rates are at least one-half of 1 percent of
 901 salary.

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

904 185.16 Requirements for retirement.—For any municipality,
 905 chapter plan, local law municipality, or local law plan under
 906 this chapter, any police officer who completes 10 or more years
 907 of creditable service as a police officer and attains age 55, or
 908 completes 25 years of creditable service as a police officer and
 909 attains age 52, and for such period has been a member of the
 910 retirement fund is eligible for normal retirement benefits.

911 Normal retirement under the plan is retirement from the service
 912 of the city on or after the normal retirement date. In such
 913 event, for chapter plans and local law plans, payment of
 914 retirement income will be governed by the following provisions
 915 of this section:

916 (2) The amount of the monthly retirement income payable to
 917 a police officer who retires on or after his or her normal
 918 retirement date shall be an amount equal to the number of the
 919 police officer's years of credited service multiplied by 2
 920 percent of his or her average final compensation. ~~However, if~~
 921 ~~current state contributions pursuant to this chapter are not~~
 922 ~~adequate to fund the additional benefits to meet the minimum~~
 923 ~~requirements in this chapter, only increment increases shall be~~
 924 ~~required as state moneys are adequate to provide. Such~~
 925 ~~increments shall be provided as state moneys become available.~~

926 Section 12. Section 185.35, Florida Statutes, is amended
 927 to read:

928 185.35 Municipalities that have ~~having~~ their own
 929 retirement ~~pension~~ plans for police officers. ~~For any~~
 930 ~~municipality, chapter plan, local law municipality, or local law~~
 931 ~~plan under this chapter,~~ In order for a municipality that has
 932 its municipalities with their own retirement plan ~~pension plans~~
 933 for police officers, or for police officers and firefighters if
 934 both are included, to participate in the distribution of the tax
 935 fund established under ~~pursuant to~~ s. 185.08, a local law plan
 936 ~~plans~~ must meet ~~the~~ minimum benefits and minimum standards,

937 except as provided in the mutual consent provisions in paragraph
 938 (1) (d) with respect to the minimum benefits not met as of
 939 October 1, 2012. ~~set forth in this chapter.~~

940 (1) If a municipality has a retirement ~~pension~~ plan for
 941 police officers, or for police officers and firefighters if both
 942 are included, which, in the opinion of the division, meets ~~the~~
 943 minimum benefits and minimum standards ~~set forth in this~~
 944 ~~chapter~~, the board of trustees of the retirement ~~pension~~ plan
 945 must, as approved by a majority of police officers of the
 946 municipality, may:

947 ~~(a)~~ place the income from the premium tax in s. 185.08 in
 948 such ~~pension~~ plan for the sole and exclusive use of its police
 949 officers, or its police officers and firefighters if both are
 950 included, where it shall become an integral part of that ~~pension~~
 951 plan and ~~shall~~ be used to fund benefits as provided herein.
 952 Effective October 1, 2015, for noncollectively bargained service
 953 or upon entering into a collective bargaining agreement on or
 954 after July 1, 2015:

955 (a) The base premium tax revenues must be used to fund
 956 minimum benefits or other retirement benefits in excess of the
 957 minimum benefits as determined by the municipality.

958 (b) Fifty percent of additional premium tax revenues must
 959 be used to fund minimum benefits or other retirement benefits in
 960 excess of the minimum benefits as determined by the
 961 municipality, and 50 percent must be placed in a defined
 962 contribution plan to fund special benefits. ~~pay extra benefits~~

963 ~~to the police officers included in that pension plan; or~~
 964 ~~(b) May place the income from the premium tax in s. 185.08~~
 965 ~~in a separate supplemental plan to pay extra benefits to the~~
 966 ~~police officers, or police officers and firefighters if~~
 967 ~~included, participating in such separate supplemental plan.~~
 968 (c) For a plan that did not receive premium tax revenues
 969 for the 2013 calendar year, the revenues received by a
 970 municipality pursuant to s. 185.10 based upon the tax
 971 collections for the first and second year of participation must
 972 be used to fund minimum benefits or other retirement benefits in
 973 excess of the minimum benefits as determined by the
 974 municipality.
 975 (d) Notwithstanding paragraphs (a)-(c), the use of premium
 976 tax revenues, including any accumulations of additional premium
 977 tax revenues which have not been allocated to fund benefits in
 978 excess of the minimum benefits, may deviate from the provisions
 979 of this subsection by mutual consent of the members' collective
 980 bargaining representative or, if none, by a majority of the
 981 active police officer members of the fund, and by consent of the
 982 municipality, provided that the plan continues to meet minimum
 983 benefits and minimum standards; however, a plan that operates
 984 pursuant to this paragraph which does not meet the minimum
 985 benefits as of October 1, 2012, may continue to provide the
 986 benefits that do not meet the minimum benefits at the same level
 987 as was provided as of October 1, 2012, and all other benefit
 988 levels must continue to meet the minimum benefits. Such mutually

989 agreed deviation must continue until modified or revoked by
 990 subsequent mutual consent of the members' collective bargaining
 991 representative or, if none, by a majority of the active police
 992 officer members of the fund, and the municipality. An existing
 993 arrangement for the use of premium tax revenues contained within
 994 a special act plan or a plan within a supplemental plan
 995 municipality is considered, as of July 1, 2015, to be a
 996 deviation for which mutual consent has been granted.

997 (2) The premium tax provided by this chapter must ~~shall in~~
 998 ~~all cases~~ be used in its entirety to provide retirement ~~extra~~
 999 benefits to police officers, or to police officers and
 1000 firefighters if both are included. ~~However, local law plans in~~
 1001 ~~effect on October 1, 1998, must comply with the minimum benefit~~
 1002 ~~provisions of this chapter only to the extent that additional~~
 1003 ~~premium tax revenues become available to incrementally fund the~~
 1004 ~~cost of such compliance as provided in s. 185.16(2). If a plan~~
 1005 ~~is in compliance with such minimum benefit provisions, as~~
 1006 ~~subsequent additional tax revenues become available, they shall~~
 1007 ~~be used to provide extra benefits.~~ Local law plans created by
 1008 special act before May 27, 1939, shall be deemed to comply with
 1009 this chapter. ~~For the purpose of this chapter, the term:~~

1010 (a) ~~"Additional premium tax revenues" means revenues~~
 1011 ~~received by a municipality pursuant to s. 185.10 which exceed~~
 1012 ~~the amount received for calendar year 1997.~~

1013 (b) ~~"Extra benefits" means benefits in addition to or~~
 1014 ~~greater than those provided to general employees of the~~

1015 ~~municipality and in addition to those in existence for police~~
 1016 ~~officers on March 12, 1999.~~

1017 (3) A retirement plan or amendment to a retirement plan
 1018 may not be proposed for adoption unless the proposed plan or
 1019 amendment contains an actuarial estimate of the costs involved.
 1020 Such proposed plan or proposed plan change may not be adopted
 1021 without the approval of the municipality or, where required
 1022 ~~permitted~~, the Legislature. Copies of the proposed plan or
 1023 proposed plan change and the actuarial impact statement of the
 1024 proposed plan or proposed plan change shall be furnished to the
 1025 division before the last public hearing on the proposal is held
 1026 ~~thereon~~. Such statement must also indicate whether the proposed
 1027 plan or proposed plan change is in compliance with s. 14, Art. X
 1028 of the State Constitution and those provisions of part VII of
 1029 chapter 112 which are not expressly provided in this chapter.
 1030 Notwithstanding any other provision, only those local law plans
 1031 created by special act of legislation before May 27, 1939, are
 1032 deemed to meet the minimum benefits and minimum standards only
 1033 in this chapter.

1034 (4) Notwithstanding any other provision, with respect to
 1035 any supplemental plan municipality:

1036 (a) Section 185.02(6)(a) ~~185.02(4)(a)~~ does not apply, and
 1037 a local law plan and a supplemental plan may continue to use
 1038 their definition of compensation or salary in existence on March
 1039 12, 1999.

1040 (b) A local law plan and a supplemental plan must continue

1041 to be administered by a board or boards of trustees numbered,
 1042 constituted, and selected as the board or boards were numbered,
 1043 constituted, and selected on December 1, 2000.

1044 ~~(c) The election set forth in paragraph (1)(b) is deemed~~
 1045 ~~to have been made.~~

1046 (5) The retirement plan setting forth the benefits and the
 1047 trust agreement, if any, covering the duties and
 1048 responsibilities of the trustees and the regulations of the
 1049 investment of funds must be in writing and copies made available
 1050 to the participants and to the general public.

1051 (6) In addition to the defined benefit component of the
 1052 local law plan, each plan sponsor must have a defined
 1053 contribution plan component within the local law plan by October
 1054 1, 2015, for noncollectively bargained service, upon entering
 1055 into a collective bargaining agreement on or after July 1, 2015,
 1056 or upon the creation date of a new participating plan. Depending
 1057 upon the application of subsection (1), a defined contribution
 1058 component may or may not receive any funding.

1059 (7) Notwithstanding any other provision of this chapter, a
 1060 municipality that has implemented or proposed changes to a local
 1061 law plan based on the municipality's reliance on an
 1062 interpretation of this chapter by the Department of Management
 1063 Services on or after August 14, 2012, and before March 4, 2015,
 1064 may continue the implemented changes or continue to implement
 1065 proposed changes. Such reliance must be evidenced by a written
 1066 collective bargaining proposal or agreement, or formal

1067 correspondence between the municipality and the Department of
 1068 Management Services which describes the specific changes to the
 1069 local law plan, with the initial proposal, agreement, or
 1070 correspondence from the municipality dated before March 4, 2015.
 1071 Changes to the local law plan which are otherwise contrary to
 1072 minimum benefits and minimum standards may continue in effect
 1073 until the earlier of October 1, 2018, or the effective date of a
 1074 collective bargaining agreement that is contrary to the changes
 1075 to the local law plan.

1076 Section 13. The Legislature finds that a proper and
 1077 legitimate state purpose is served when employees and retirees
 1078 of this state and its political subdivisions, and the
 1079 dependents, survivors, and beneficiaries of such employees and
 1080 retirees, are extended the basic protections afforded by
 1081 governmental retirement systems that provide fair and adequate
 1082 benefits and that are managed, administered, and funded in an
 1083 actuarially sound manner as required under s. 14, Article X of
 1084 the State Constitution and part VII of chapter 112, Florida
 1085 Statutes. Therefore, the Legislature determines and declares
 1086 that this act fulfills an important state interest.

1087 Section 14. This act shall take effect July 1, 2015.



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: State Affairs Committee
 2 Representative Cummings offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:
 6 Section 1. Subsection (2) of section 175.021, Florida
 7 Statutes, is amended to read:

8 175.021 Legislative declaration.—

9 (2) This chapter hereby establishes, for all municipal and
 10 special district pension plans existing ~~now or hereafter~~ under
 11 this chapter, including chapter plans and local law plans,
 12 minimum benefits and minimum standards for the operation and
 13 funding of such plans, hereinafter referred to as firefighters'
 14 pension trust funds, which must be met as conditions precedent
 15 to the plan or plan sponsor receiving a distribution of
 16 insurance premium tax revenues under s. 175.121. The Minimum
 17 benefits and minimum standards for each plan set forth in this



Amendment No.

18 ~~chapter~~ may not be diminished by local charter, ordinance, or
19 resolution or by special act of the Legislature and may not, ~~nor~~
20 ~~may the minimum benefits or minimum standards~~ be reduced or
21 offset by any other local, state, or federal law that includes
22 ~~may include~~ firefighters in its operation, except as provided
23 under s. 112.65.

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

26 175.032 Definitions.—For any municipality, special fire
27 control district, chapter plan, local law municipality, local
28 law special fire control district, or local law plan under this
29 chapter, the term ~~following words and phrases have the following~~
30 ~~meanings:~~

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

34 (2)(1)(a) "Average final compensation" for:

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

42 (b) "Average final compensation" for A volunteer
43 firefighter means the average salary of the 5 best years of the



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44 last 10 best contributing years before ~~prior to~~ change in status
45 to a permanent full-time firefighter or retirement as a
46 volunteer firefighter or the career average of a volunteer
47 firefighter, since July 1, 1953, whichever is greater.

48 (3) "Base premium tax revenues" means:

49 (a) For a local law plan in effect on October 1, 2003, the
50 revenues received by a municipality or special fire control
51 district pursuant to s. 175.121 for the 2002 calendar year.

52 (b) For a local law plan created between October 1, 2003,
53 and March 1, 2015, inclusive, the revenues received by a
54 municipality or special fire control district pursuant to s.
55 175.121 based upon the tax collections during the second
56 calendar year of participation.

57 (4)(2) "Chapter plan" means a separate defined benefit
58 pension plan for firefighters which incorporates by reference
59 the provisions of this chapter and has been adopted by the
60 governing body of a municipality or special district. Except as
61 may be specifically authorized in this chapter, the provisions
62 of a chapter plan may not differ from the plan provisions set
63 forth in ss. 175.021-175.341 and ss. 175.361-175.401. Actuarial
64 valuations of chapter plans shall be conducted by the division
65 as provided by s. 175.261(1).

66 (5)(3) "Compensation" or "salary" means, for
67 noncollectively bargained service earned before July 1, 2011, or
68 for service earned under collective bargaining agreements in
69 place before July 1, 2011, the fixed monthly remuneration paid a



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70 firefighter. If remuneration is based on actual services
71 rendered, as in the case of a volunteer firefighter, the term
72 means the total cash remuneration received yearly for such
73 services, prorated on a monthly basis. For noncollectively
74 bargained service earned on or after July 1, 2011, or for
75 service earned under collective bargaining agreements entered
76 into on or after July 1, 2011, the term has the same meaning
77 except that when calculating retirement benefits, up to 300
78 hours per year in overtime compensation may be included as
79 specified in the plan or collective bargaining agreement, but
80 payments for accrued unused sick or annual leave may not be
81 included.

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

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



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95 (c) For any person who first becomes a member in any plan
96 year beginning on or after January 1, 1996, compensation for
97 that plan year may not include any amounts in excess of the
98 Internal Revenue Code s. 401(a)(17) limitation, as amended by
99 the Omnibus Budget Reconciliation Act of 1993, which limitation
100 of \$150,000 shall be adjusted as required by federal law for
101 qualified government plans and ~~shall be~~ further adjusted for
102 changes in the cost of living in the manner provided by Internal
103 Revenue Code s. 401(a)(17)(B). For any person who first became a
104 member before the first plan year beginning on or after January
105 1, 1996, the limitation on compensation may not be less than the
106 maximum compensation amount that was allowed to be taken into
107 account under the plan in effect on July 1, 1993, which
108 limitation shall be adjusted for changes in the cost of living
109 since 1989 in the manner provided by Internal Revenue Code s.
110 401(a)(17)(1991).

111 ~~(6)(4)~~ "Creditable service" or "credited service" means
112 the aggregate number of years of service~~7~~ and fractional parts
113 of years of service~~7~~ of any firefighter, omitting intervening
114 years and fractional parts of years when such firefighter may
115 not have been employed by the municipality or special fire
116 control district, subject to the following conditions:

117 (a) A ~~No~~ firefighter may not ~~will~~ receive credit for years
118 or fractional parts of years of service if he or she has
119 withdrawn his or her contributions to the fund for those years
120 or fractional parts of years of service, unless the firefighter



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121 repays into the fund the amount he or she has withdrawn, plus
122 interest determined by the board. The member has ~~shall have~~ at
123 least 90 days after his or her reemployment to make repayment.

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

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



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147 her service is equivalent to the service required to meet the
148 definition of a firefighter ~~under subsection (8)~~.

149 (d) In determining the creditable service of any
150 firefighter, credit for up to 5 years of the time spent in the
151 military service of the Armed Forces of the United States shall
152 be added to the years of actual service if:

153 1. The firefighter is in the active employ of an employer
154 immediately before ~~prior to~~ such service and leaves a position,
155 other than a temporary position, for the purpose of voluntary or
156 involuntary service in the Armed Forces of the United States.

157 2. The firefighter is entitled to reemployment under ~~the~~
158 ~~provisions of~~ the Uniformed Services Employment and Reemployment
159 Rights Act.

160 3. The firefighter returns to his or her employment as a
161 firefighter of the municipality or special fire control district
162 within 1 year after ~~from~~ the date of release from such active
163 service.

164 ~~(7)(5)~~ "Deferred Retirement Option Plan" or "DROP" means a
165 local law plan retirement option in which a firefighter may
166 elect to participate. A firefighter may retire for all purposes
167 of the plan and defer receipt of retirement benefits into a DROP
168 account while continuing employment with his or her employer.
169 However, a firefighter who enters the DROP and who is otherwise
170 eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from
171 participation or continued participation ~~participating, or~~
172 ~~continuing to participate,~~ in a supplemental plan in existence



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173 on, or created after, March 12, 1999 ~~the effective date of this~~
174 ~~act.~~

175 (8) "Defined contribution plan" means the component of a
176 local law plan, as provided in s. 175.351(1), to which deposits,
177 if any, are made to provide benefits for firefighters, or for
178 firefighters and police officers if both are included. Such
179 component is an element of a local law plan and exists in
180 conjunction with the defined benefit plan component that meets
181 minimum benefits and minimum standards. The retirement benefits,
182 if any, of the defined contribution plan component shall be
183 provided through individual member accounts in accordance with
184 the applicable provisions of the Internal Revenue Code and
185 related regulations and are limited to the contributions, if
186 any, made into each member's account and the actual accumulated
187 earnings, net of expenses, earned on the member's account.

188 (9)(6) "Division" means the Division of Retirement of the
189 Department of Management Services.

190 (10)(7) "Enrolled actuary" means an actuary who is
191 enrolled under Subtitle C of Title III of the Employee
192 Retirement Income Security Act of 1974 and who is a member of
193 the Society of Actuaries or the American Academy of Actuaries.

194 (11)(a)(8)(a) "Firefighter" means a person employed solely
195 by a constituted fire department of any municipality or special
196 fire control district who is certified as a firefighter as a
197 condition of employment in accordance with s. 633.408 and whose
198 duty it is to extinguish fires, to protect life, or to protect



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199 property. The term includes all certified, supervisory, and
200 command personnel whose duties include, in whole or in part, the
201 supervision, training, guidance, and management responsibilities
202 of full-time firefighters, part-time firefighters, or auxiliary
203 firefighters but does not include part-time firefighters or
204 auxiliary firefighters. However, for purposes of this chapter
205 only, the term also includes public safety officers who are
206 responsible for performing both police and fire services, who
207 are certified as police officers or firefighters, and who are
208 certified by their employers to the Chief Financial Officer as
209 participating in this chapter before October 1, 1979. Effective
210 October 1, 1979, public safety officers who have not been
211 certified as participating in this chapter are considered police
212 officers for retirement purposes and are eligible to participate
213 in chapter 185. Any plan may provide that the fire chief has an
214 option to participate, ~~or not,~~ in that plan.

215 (b) "Volunteer firefighter" means any person whose name is
216 carried on the active membership roll of a constituted volunteer
217 fire department or a combination of a paid and volunteer fire
218 department of any municipality or special fire control district
219 and whose duty it is to extinguish fires, to protect life, and
220 to protect property. Compensation for services rendered by a
221 volunteer firefighter does ~~shall~~ not disqualify him or her as a
222 volunteer. A person may ~~shall~~ not be disqualified as a volunteer
223 firefighter solely because he or she has other gainful
224 employment. Any person who volunteers assistance at a fire but



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225 is not an active member of a department described herein is not
226 a volunteer firefighter within the meaning of this paragraph.

227 ~~(12)-(9)~~ "Firefighters' Pension Trust Fund" means a trust
228 fund, by whatever name known, as provided under s. 175.041, for
229 the purpose of assisting municipalities and special fire control
230 districts in establishing and maintaining a retirement plan for
231 firefighters.

232 ~~(13)-(10)~~ "Local law municipality" means ~~is~~ any
233 municipality in which ~~there exists~~ a local law plan exists.

234 ~~(14)-(11)~~ "Local law plan" means a retirement defined
235 ~~benefit pension~~ plan which includes both a defined benefit plan
236 component and a defined contribution plan component for
237 firefighters, or for firefighters and ~~or~~ police officers if both
238 are ~~where~~ included, as described in s. 175.351, established by
239 municipal ordinance, special district resolution, or special act
240 of the Legislature, which enactment sets forth all plan
241 provisions. Local law plan provisions may vary from the
242 provisions of this chapter ~~if, provided that required~~ minimum
243 benefits and minimum standards are met. However, any such
244 variance must ~~shall~~ provide a greater benefit for firefighters.
245 Actuarial valuations of local law plans shall be conducted by an
246 enrolled actuary as provided in s. 175.261(2).

247 ~~(15)-(12)~~ "Local law special fire control district" means
248 ~~is~~ any special fire control district in which ~~there exists~~ a
249 local law plan exists.



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250 (16) "Minimum benefits" means the benefits specified in
251 ss. 175.021-175.341 and ss. 175.361-175.401.

252 (17) "Minimum standards" means the standards specified in
253 ss. 175.021-175.401.

254 (18)(13) "Property insurance" means property insurance as
255 defined in s. 624.604 and covers real and personal property
256 within the corporate limits of a ~~any~~ municipality, or within the
257 boundaries of a ~~any~~ special fire control district, within the
258 state. The term "multiple peril" means a combination or package
259 policy that includes both property and casualty coverage for a
260 single premium.

261 (19)(14) "Retiree" or "retired firefighter" means a
262 firefighter who has entered retirement status. For the purposes
263 of a plan that includes a Deferred Retirement Option Plan
264 (DROP), a firefighter who enters the DROP is ~~shall be~~ considered
265 a retiree for all purposes of the plan. However, a firefighter
266 who enters the DROP and who is otherwise eligible to participate
267 may ~~shall~~ not ~~thereby~~ be precluded from participation or
268 continued participation participating, or continuing to
269 ~~participate,~~ in a supplemental plan in existence on, or created
270 after, March 12, 1999 ~~the effective date of this act.~~

271 (20)(15) "Retirement" means a firefighter's separation
272 from municipal city or fire district employment as a firefighter
273 with immediate eligibility for ~~receipt of~~ benefits under the
274 plan. For purposes of a plan that includes a Deferred Retirement



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275 Option Plan (DROP), "retirement" means the date a firefighter
276 enters the DROP.

277 (21) "Special act plan" means a plan subject to the
278 provisions of this chapter which was created by an act of the
279 Legislature and continues to require an act of the Legislature
280 to alter plan benefits.

281 (22) "Special benefits" means benefits provided in a
282 defined contribution plan for firefighters.

283 (23)-(16) "Special fire control district" means a special
284 district, as defined in s. 189.012, established for the purposes
285 of extinguishing fires, protecting life, and protecting property
286 within the incorporated or unincorporated portions of a ~~any~~
287 county or combination of counties, or within any combination of
288 incorporated and unincorporated portions of a ~~any~~ county or
289 combination of counties. The term does not include any dependent
290 or independent special district, as those terms are defined in
291 s. 189.012, the employees of which are members of the Florida
292 Retirement System pursuant to s. 121.051(1) or (2).

293 (24)-(17) "Supplemental plan" means a plan to which
294 deposits are made to provide special ~~extra~~ benefits for
295 firefighters, or for firefighters and police officers if both
296 are ~~where included under this chapter~~. Such a plan is an element
297 of a local law plan and exists in conjunction with a defined
298 benefit plan component that meets ~~the~~ minimum benefits and
299 minimum standards ~~of this chapter~~. Any supplemental plan in



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300 existence on March 1, 2015, shall be deemed to be a defined
301 contribution plan in compliance with s. 175.351(6).

302 (25)(18) "Supplemental plan municipality" means a any
303 local law municipality in which any ~~there existed~~ a supplemental
304 plan ~~existed, of any type or nature,~~ as of December 1, 2000.

305 Section 3. Subsection (8) is added to section 175.061,
306 Florida Statutes, to read:

307 175.061 Board of trustees; members; terms of office;
308 meetings; legal entity; costs; attorney's fees.-For any
309 municipality, special fire control district, chapter plan, local
310 law municipality, local law special fire control district, or
311 local law plan under this chapter:

312 (8) (a) The board of trustees shall:

313 1. Provide a detailed accounting report of its expenses
314 for each fiscal year to the plan sponsor and the Department of
315 Management Services and make the report available to each member
316 of the plan and post the report on the board's website, if the
317 board has a website. The report must include all administrative
318 expenses that, for purposes of this subsection, are expenses
319 relating to any legal counsel, actuary, plan administrator, and
320 all other consultants, and all travel and other expenses paid to
321 or on behalf of the members of the board of trustees or anyone
322 else on behalf of the plan.

323 2. Operate under an administrative expense budget for each
324 fiscal year, provide a copy of the budget to the plan sponsor,
325 and make available a copy of the budget to plan members before



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326 the beginning of the fiscal year. If the board of trustees
327 amends the administrative expense budget, the board must provide
328 a copy of the amended budget to the plan sponsor and make
329 available a copy of the amended budget to plan members.

330 (b) Notwithstanding s. 175.351(2) and (3), a local law
331 plan created by special act before May 27, 1939, must comply
332 with the provisions of this subsection.

333 Section 4. Subsection (7) of section 175.071, Florida
334 Statutes, is amended to read:

335 175.071 General powers and duties of board of trustees.-
336 For any municipality, special fire control district, chapter
337 plan, local law municipality, local law special fire control
338 district, or local law plan under this chapter:

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

341 (a) Employ independent legal counsel at the pension fund's
342 expense.

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

345 (c) Employ such independent professional, technical, or
346 other advisers as it deems necessary at the pension fund's
347 expense.

348
349 If the board chooses to use the municipality's or special
350 district's legal counsel or actuary, or chooses to use any of
351 the municipality's or special district's other professional,



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352 technical, or other advisers, it must do so only under terms and
353 conditions acceptable to the board.

354 Section 5. Paragraph (d) of subsection (1) of section
355 175.091, Florida Statutes, is amended to read:

356 175.091 Creation and maintenance of fund.—For any
357 municipality, special fire control district, chapter plan, local
358 law municipality, local law special fire control district, or
359 local law plan under this chapter:

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

363 (d) By mandatory payment by the municipality or special
364 fire control district of a sum equal to the normal cost of and
365 the amount required to fund any actuarial deficiency shown by an
366 actuarial valuation conducted under as provided in part VII of
367 chapter 112 after taking into account the amounts described in
368 paragraphs (b), (c), (e), (f), and (g) and the tax proceeds
369 described in paragraph (a) which are used to fund benefits in a
370 defined benefit plan component.

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



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377 Section 6. Paragraph (a) of subsection (2) of section
378 175.162, Florida Statutes, is amended to read:

379 175.162 Requirements for retirement.—For any municipality,
380 special fire control district, chapter plan, local law
381 municipality, local law special fire control district, or local
382 law plan under this chapter, any firefighter who completes 10 or
383 more years of creditable service as a firefighter and attains
384 age 55, or completes 25 years of creditable service as a
385 firefighter and attains age 52, and who for such minimum period
386 has been a member of the firefighters' pension trust fund
387 operating under a chapter plan or local law plan, is eligible
388 for normal retirement benefits. Normal retirement under the plan
389 is retirement from the service of the municipality or special
390 fire control district on or after the normal retirement date. In
391 such event, payment of retirement income will be governed by the
392 following provisions of this section:

393 (2)(a)1. The amount of monthly retirement income payable
394 to a full-time firefighter who retires on or after his or her
395 normal retirement date shall be an amount equal to the number of
396 his or her years of credited service multiplied by 2.75 ~~2~~
397 percent of his or her average final compensation as a full-time
398 firefighter. ~~However, if current state contributions pursuant to~~
399 ~~this chapter are not adequate to fund the additional benefits to~~
400 ~~meet the minimum requirements in this chapter, only such~~
401 ~~incremental increases shall be required as state moneys are~~



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402 ~~adequate to provide. Such increments shall be provided as state~~
403 ~~moneys become available.~~

404 2. Effective July 1, 2015, a plan that is in compliance
405 with this chapter except that the plan provides a benefit that
406 is less than 2.75 percent of the average final compensation of a
407 full-time firefighter for all years of credited service or
408 provides an effective benefit that is less than 2.75 percent as
409 a result of a maximum benefit limitation:

410 a. Must maintain, at a minimum, the percentage amount or
411 maximum benefit limitation in effect on July 1, 2015, and is not
412 required to increase the benefit to 2.75 percent of the average
413 final compensation of a full-time firefighter for all years of
414 credited service; or

415 b. If the plan changes the percentage amount or maximum
416 benefit limitation to 2.75 percent, or more, of the average
417 final compensation of a full-time firefighter for all years of
418 credited service, the plan may not thereafter decrease the
419 percentage amount or maximum benefit limitation to less than
420 2.75 percent of the average final compensation of a full-time
421 firefighter for all years of credited service.

422 Section 7. Section 175.351, Florida Statutes, is amended
423 to read:

424 175.351 Municipalities and special fire control districts
425 that have ~~having~~ their own retirement ~~pension~~ plans for
426 firefighters. ~~For any municipality, special fire control~~
427 ~~district, local law municipality, local law special fire control~~



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428 ~~district, or local law plan under this chapter,~~ In order for a
429 municipality or municipalities and special fire control district
430 that has its districts with their own retirement plan pension
431 plans for firefighters, or for firefighters and police officers
432 if both are included, to participate in the distribution of the
433 tax fund established under ~~pursuant to~~ s. 175.101, a local law
434 plan plans must meet the minimum benefits and minimum standards,
435 except as provided in the mutual consent provisions in paragraph
436 (1)(g) with respect to the minimum benefits not met as of
437 October 1, 2012 set forth in this chapter.

438 (1) If a municipality has a retirement pension plan for
439 firefighters, or a ~~pension plan~~ for firefighters and police
440 officers if both are included, which in the opinion of the
441 division meets the minimum benefits and minimum standards ~~set~~
442 ~~forth in this chapter,~~ the board of trustees of the retirement
443 pension plan must, ~~as approved by a majority of firefighters of~~
444 ~~the municipality, may:~~

445 (a) place the income from the premium tax in s. 175.101 in
446 such pension plan for the sole and exclusive use of its
447 firefighters, or for firefighters and police officers if both
448 are included, where it shall become an integral part of that
449 pension plan and ~~shall~~ be used to fund benefits as provided
450 herein. Effective October 1, 2015, for noncollectively bargained
451 service or upon entering into a collective bargaining agreement
452 on or after July 1, 2015:



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453 (a) The base premium tax revenues must be used to fund
454 minimum benefits or other retirement benefits in excess of the
455 minimum benefits as determined by the municipality or special
456 fire control district.

457 (b) Of the additional premium tax revenues received that
458 are in excess of the amount received for the 2012 calendar year,
459 50 percent must be used to fund minimum benefits or other
460 retirement benefits in excess of the minimum benefits as
461 determined by the municipality or special fire control district,
462 and 50 percent must be placed in a defined contribution plan to
463 fund special benefits.

464 (c) Additional premium tax revenues not described in
465 paragraph (b) must be used to fund benefits that are not
466 included in the minimum benefits. If the additional premium tax
467 revenues subject to this paragraph exceed the full annual cost
468 of benefits provided through the plan which are in excess of the
469 minimum benefits, any amount in excess of the full annual cost
470 must be used as provided in paragraph (b).

471 (d) Of any accumulations of additional premium tax
472 revenues which have not been allocated to fund benefits in
473 excess of the minimum benefits, 50 percent of the amount of the
474 accumulations must be used to fund special benefits, and 50
475 percent must be applied to fund any unfunded actuarial
476 liabilities of the plan; provided that any amount of
477 accumulations in excess of the amount required to fund the
478 unfunded actuarial liabilities must be used to fund special



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479 ~~benefits to pay extra benefits to the firefighters included in~~
480 ~~that pension plan; or~~

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

485 (e) For a plan created after March 1, 2015, 50 percent of
486 the insurance premium tax revenues must be used to fund defined
487 benefit plan component benefits, with the remainder used to fund
488 defined contribution plan component benefits.

489 (f) If a plan offers benefits in excess of the minimum
490 benefits, such benefits, excluding supplemental plan benefits in
491 effect as of September 30, 2014, may be reduced if the plan
492 continues to meet minimum benefits and minimum standards. The
493 amount of insurance premium tax revenues previously used to fund
494 benefits in excess of minimum benefits before the reduction,
495 excluding the amount of any additional premium tax revenues
496 distributed to a supplemental plan for the 2012 calendar year,
497 must be used as provided in paragraph (b). However, benefits in
498 excess of minimum benefits may not be reduced if a plan does not
499 meet the minimum percentage amount of 2.75 percent of the
500 average final compensation of a full-time firefighter, as
501 required by s. 175.162(2)(a)1., or provides an effective benefit
502 that is below 2.75 percent as a result of a maximum benefit
503 limitation as described in s. 175.162(2)(a)2.



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504 (g) Notwithstanding paragraphs (a)-(f), the use of premium
505 tax revenues, including any accumulations of additional premium
506 tax revenues which have not been allocated to fund benefits in
507 excess of minimum benefits, may deviate from the provisions of
508 this subsection by mutual consent of the members' collective
509 bargaining representative or, if there is no representative, by
510 a majority of the firefighter members of the fund, and by
511 consent of the municipality or special fire control district,
512 provided that the plan continues to meet minimum benefits and
513 minimum standards; however, a plan that operates pursuant to
514 this paragraph and does not meet minimum benefits as of October
515 1, 2012, may continue to provide the benefits that do not meet
516 the minimum benefits at the same level as was provided as of
517 October 1, 2012, and all other benefit levels must continue to
518 meet the minimum benefits. Such mutually agreed deviation must
519 continue until modified or revoked by subsequent mutual consent
520 of the members' collective bargaining representative or, if
521 none, by a majority of the firefighter members of the fund, and
522 the municipality or special fire control district. An existing
523 arrangement for the use of premium tax revenues contained within
524 a special act plan or a plan within a supplemental plan
525 municipality is considered, as of July 1, 2015, to be a
526 deviation for which mutual consent has been granted.

527 (2) The premium tax provided by this chapter must ~~shall in~~
528 ~~all cases~~ be used in its entirety to provide retirement ~~extra~~
529 benefits to firefighters, or to firefighters and police officers



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530 if both are included. ~~However, local law plans in effect on~~
531 ~~October 1, 1998, must comply with the minimum benefit provisions~~
532 ~~of this chapter only to the extent that additional premium tax~~
533 ~~revenues become available to incrementally fund the cost of such~~
534 ~~compliance as provided in s. 175.162(2)(a). If a plan is in~~
535 ~~compliance with such minimum benefit provisions, as subsequent~~
536 ~~additional premium tax revenues become available, they must be~~
537 ~~used to provide extra benefits.~~ Local law plans created by
538 special act before May 27, 1939, are deemed to comply with this
539 chapter. ~~For the purpose of this chapter, the term:~~

540 ~~(a) "Additional premium tax revenues" means revenues~~
541 ~~received by a municipality or special fire control district~~
542 ~~pursuant to s. 175.121 which exceed that amount received for~~
543 ~~calendar year 1997.~~

544 ~~(b) "Extra benefits" means benefits in addition to or~~
545 ~~greater than those provided to general employees of the~~
546 ~~municipality and in addition to those in existence for~~
547 ~~firefighters on March 12, 1999.~~

548 (3) A retirement plan or amendment to a retirement plan
549 may not be proposed for adoption unless the proposed plan or
550 amendment contains an actuarial estimate of the costs involved.
551 Such proposed plan or proposed plan change may not be adopted
552 without the approval of the municipality, special fire control
553 district, or, where required ~~permitted~~, the Legislature. Copies
554 of the proposed plan or proposed plan change and the actuarial
555 impact statement of the proposed plan or proposed plan change



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556 shall be furnished to the division before the last public
557 hearing on the proposal is held ~~thereon~~. Such statement must
558 also indicate whether the proposed plan or proposed plan change
559 is in compliance with s. 14, Art. X of the State Constitution
560 and those provisions of part VII of chapter 112 which are not
561 expressly provided in this chapter. Notwithstanding any other
562 provision, only those local law plans created by special act of
563 legislation before May 27, 1939, are deemed to meet ~~the~~ minimum
564 benefits and minimum standards ~~only in this chapter~~.

565 (4) Notwithstanding any other provision, with respect to
566 any supplemental plan municipality:

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

570 (b) Section 175.061(1)(b) does not apply, and a local law
571 plan and a supplemental plan shall continue to be administered
572 by a board or boards of trustees numbered, constituted, and
573 selected as the board or boards were numbered, constituted, and
574 selected on December 1, 2000.

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

577 (5) The retirement plan setting forth the benefits and the
578 trust agreement, if any, covering the duties and
579 responsibilities of the trustees and the regulations of the
580 investment of funds must be in writing, and copies made
581 available to the participants and to the general public.



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582 | (6) In addition to the defined benefit plan component of
583 | the local law plan, each plan sponsor must have a defined
584 | contribution plan component within the local law plan by October
585 | 1, 2015, for noncollectively bargained service, upon entering
586 | into a collective bargaining agreement on or after July 1, 2015,
587 | or upon the creation date of a new participating plan. Depending
588 | upon the application of subsection (1), a defined contribution
589 | plan component may or may not receive any funding.

590 | (7) Notwithstanding any other provision of this chapter, a
591 | municipality or special fire control district that has
592 | implemented or proposed changes to a local law plan based on the
593 | municipality's or district's reliance on an interpretation of
594 | this chapter by the Department of Management Services on or
595 | after August 14, 2012, and before March 3, 2015, may continue
596 | the implemented changes or continue to implement proposed
597 | changes. Such reliance must be evidenced by a written collective
598 | bargaining proposal or agreement, or formal correspondence
599 | between the municipality or district and the Department of
600 | Management Services which describes the specific changes to the
601 | local law plan, with the initial proposal, agreement, or
602 | correspondence from the municipality or district dated before
603 | March 3, 2015. Changes to the local law plan which are otherwise
604 | contrary to minimum benefits and minimum standards may continue
605 | in effect until the earlier of October 1, 2018, or the effective
606 | date of a collective bargaining agreement that is contrary to
607 | the changes to the local law plan.

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608 Section 8. Subsection (2) of section 185.01, Florida
609 Statutes, is amended to read:

610 185.01 Legislative declaration.—

611 (2) This chapter hereby establishes, for all municipal
612 pension plans ~~now or hereinafter~~ provided for under this
613 chapter, including chapter plans and local law plans, minimum
614 benefits and minimum standards for the operation and funding of
615 such plans, hereinafter referred to as municipal police
616 officers' retirement trust funds, which must be met as
617 conditions precedent to the plan or plan sponsor receiving a
618 distribution of insurance premium tax revenues under s. 185.10.
619 ~~The~~ Minimum benefits and minimum standards for each plan set
620 ~~forth in this chapter~~ may not be diminished by local ordinance
621 or by special act of the Legislature and may not, ~~nor may the~~
622 ~~minimum benefits or minimum standards~~ be reduced or offset by
623 any other local, state, or federal plan that includes ~~may~~
624 ~~include~~ police officers in its operation, except as provided
625 under s. 112.65.

626 Section 9. Section 185.02, Florida Statutes, is amended to
627 read:

628 185.02 Definitions.—For any municipality, chapter plan,
629 local law municipality, or local law plan under this chapter,
630 the term following words and phrases as used in this chapter
631 ~~shall have the following meanings, unless a different meaning is~~
632 ~~plainly required by the context:~~



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633 (1) "Additional premium tax revenues" means revenues
634 received by a municipality pursuant to s. 185.10 which exceed
635 base premium tax revenues.

636 ~~(2)~~⁽¹⁾ "Average final compensation" means one-twelfth of
637 the average annual compensation of the 5 best years of the last
638 10 years of creditable service before ~~prior to~~ retirement,
639 termination, or death.

640 (3) "Base premium tax revenues" means:

641 (a) For a local law plan in effect on October 1, 2003, the
642 revenues received by a municipality pursuant to s. 185.10 for
643 the 2002 calendar year.

644 (b) For a local law plan created between October 1, 2003,
645 and March 1, 2015, inclusive, the revenues received by a
646 municipality pursuant to s. 185.10 based upon the tax
647 collections during the second calendar year of participation.

648 ~~(4)~~⁽²⁾ "Casualty insurance" means automobile public
649 liability and property damage insurance to be applied at the
650 place of residence of the owner, or if the subject is a
651 commercial vehicle, to be applied at the place of business of
652 the owner; automobile collision insurance; fidelity bonds;
653 burglary and theft insurance; and plate glass insurance. The
654 term "multiple peril" means a combination or package policy that
655 includes both property coverage and casualty coverage for a
656 single premium.

657 ~~(5)~~⁽³⁾ "Chapter plan" means a separate defined benefit
658 pension plan for police officers which incorporates by reference



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659 the provisions of this chapter and has been adopted by the
660 governing body of a municipality as provided in s. 185.08.
661 Except as ~~may be~~ specifically authorized in this chapter, the
662 provisions of a chapter plan may not differ from the plan
663 provisions set forth in ss. 185.01-185.341 and ss. 185.37-
664 185.39. Actuarial valuations of chapter plans shall be conducted
665 by the division as provided by s. 185.221(1)(b).

666 (6) ~~(4)~~ "Compensation" or "salary" means, for
667 noncollectively bargained service earned before July 1, 2011, or
668 for service earned under collective bargaining agreements in
669 place before July 1, 2011, the total cash remuneration including
670 "overtime" paid by the primary employer to a police officer for
671 services rendered, but not including any payments for extra duty
672 or special detail work performed on behalf of a second party
673 employer. Overtime may be limited before July 1, 2011, in a
674 local law plan by the plan provisions ~~A local law plan may limit~~
675 ~~the amount of overtime payments which can be used for retirement~~
676 ~~benefit calculation purposes; however, such overtime limit may~~
677 ~~not be less than 300 hours per officer per calendar year. For~~
678 noncollectively bargained service earned on or after July 1,
679 2011, or for service earned under collective bargaining
680 agreements entered into on or after July 1, 2011, the term has
681 the same meaning except that when calculating retirement
682 benefits, up to 300 hours per year in overtime compensation may
683 be included as specified in the plan or collective bargaining



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684 agreement, but payments for accrued unused sick or annual leave
685 may not be included.

686 (a) Any retirement trust fund or plan that meets the
687 requirements of this chapter does not, solely by virtue of this
688 subsection, reduce or diminish the monthly retirement income
689 otherwise payable to each police officer covered by the
690 retirement trust fund or plan.

691 (b) The member's compensation or salary contributed as
692 employee-elective salary reductions or deferrals to any salary
693 reduction, deferred compensation, or tax-sheltered annuity
694 program authorized under the Internal Revenue Code shall be
695 deemed to be the compensation or salary the member would receive
696 if he or she were not participating in such program and shall be
697 treated as compensation for retirement purposes under this
698 chapter.

699 (c) For any person who first becomes a member in any plan
700 year beginning on or after January 1, 1996, compensation for
701 that plan year may not include any amounts in excess of the
702 Internal Revenue Code s. 401(a)(17) limitation, as amended by
703 the Omnibus Budget Reconciliation Act of 1993, which limitation
704 of \$150,000 shall be adjusted as required by federal law for
705 qualified government plans and ~~shall be~~ further adjusted for
706 changes in the cost of living in the manner provided by Internal
707 Revenue Code s. 401(a)(17)(B). For any person who first became a
708 member before the first plan year beginning on or after January
709 1, 1996, the limitation on compensation may not be less than the



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710 maximum compensation amount that was allowed to be taken into
711 account under the plan ~~as~~ in effect on July 1, 1993, which
712 limitation shall be adjusted for changes in the cost of living
713 since 1989 in the manner provided by Internal Revenue Code s.
714 401(a)(17)(1991).

715 ~~(7)(5)~~ "Creditable service" or "credited service" means
716 the aggregate number of years of service and fractional parts of
717 years of service of any police officer, omitting intervening
718 years and fractional parts of years when such police officer may
719 not have been employed by the municipality subject to the
720 following conditions:

721 (a) A ~~No~~ police officer may not ~~will~~ receive credit for
722 years or fractional parts of years of service if he or she has
723 withdrawn his or her contributions to the fund for those years
724 or fractional parts of years of service, unless the police
725 officer repays into the fund the amount he or she has withdrawn,
726 plus interest as determined by the board. The member has ~~shall~~
727 ~~have~~ at least 90 days after his or her reemployment to make
728 repayment.

729 (b) A police officer may voluntarily leave his or her
730 contributions in the fund for ~~a period of~~ 5 years after leaving
731 the employ of the police department, pending the possibility of
732 his or her being rehired by the same department, without losing
733 credit for the time he or she has participated actively as a
734 police officer. If he or she is not reemployed as a police



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735 officer with the same department within 5 years, his or her
736 contributions shall be returned ~~to him or her~~ without interest.

737 (c) Credited service under this chapter shall be provided
738 only for service as a police officer, ~~as defined in subsection~~
739 ~~(11)~~, or for military service and may not include credit for any
740 other type of service. A municipality ~~may~~, by local ordinance,
741 may provide for the purchase of credit for military service
742 occurring before employment as well as prior service as a police
743 officer for some other employer as long as the police officer is
744 not entitled to receive a benefit for such ~~other~~ prior service
745 ~~as a police officer~~. For purposes of determining credit for
746 prior service, in addition to service as a police officer in
747 this state, credit may be given for federal, other state, or
748 county service as long as such service is recognized by the
749 Criminal Justice Standards and Training Commission within the
750 Department of Law Enforcement as provided in ~~under~~ chapter 943
751 or the police officer provides proof to the board of trustees
752 that such service is equivalent to the service required to meet
753 the definition of a police officer ~~under subsection (11)~~.

754 (d) In determining the creditable service of a any police
755 officer, credit for up to 5 years of the time spent in the
756 military service of the Armed Forces of the United States shall
757 be added to the years of actual service, if:

758 1. The police officer is in the active employ of the
759 municipality before ~~prior to~~ such service and leaves a position,



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760 other than a temporary position, for the purpose of voluntary or
761 involuntary service in the Armed Forces of the United States.

762 2. The police officer is entitled to reemployment under
763 ~~the provisions of~~ the Uniformed Services Employment and
764 Reemployment Rights Act.

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

768 ~~(8)(6)~~ "Deferred Retirement Option Plan" or "DROP" means a
769 local law plan retirement option in which a police officer may
770 elect to participate. A police officer may retire for all
771 purposes of the plan and defer receipt of retirement benefits
772 into a DROP account while continuing employment with his or her
773 employer. However, a police officer who enters the DROP and who
774 is otherwise eligible to participate may shall ~~not thereby~~ be
775 precluded from participation or continued participation
776 ~~participating, or continuing to participate,~~ in a supplemental
777 plan in existence on, or created after, March 12, 1999 ~~the~~
778 ~~effective date of this act.~~

779 (9) "Defined contribution plan" means the component of a
780 local law plan, as provided in s. 185.35(1), to which deposits,
781 if any, are made to provide benefits for police officers, or for
782 police officers and firefighters if both are included. Such
783 component is an element of a local law plan and exists in
784 conjunction with the defined benefit component that meets
785 minimum benefits and minimum standards. The retirement benefits,



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786 if any, of the defined contribution plan shall be provided
787 through individual member accounts in accordance with the
788 applicable provisions of the Internal Revenue Code and related
789 regulations and are limited to the contributions, if any, made
790 into each member's account and the actual accumulated earnings,
791 net of expenses, earned on the member's account.

792 (10)(7) "Division" means the Division of Retirement of the
793 Department of Management Services.

794 (11)(8) "Enrolled actuary" means an actuary who is
795 enrolled under Subtitle C of Title III of the Employee
796 Retirement Income Security Act of 1974 and who is a member of
797 the Society of Actuaries or the American Academy of Actuaries.

798 (12)(9) "Local law municipality" means ~~is~~ any municipality
799 in which ~~there exists~~ a local law plan exists.

800 (13)(10) "Local law plan" means a retirement defined
801 benefit pension plan that includes both a defined benefit plan
802 component and a defined contribution plan component for police
803 officers, or for police officers and firefighters if both are
804 ~~where~~ included, as described in s. 185.35, established by
805 municipal ordinance or special act of the Legislature, which
806 enactment sets forth all plan provisions. Local law plan
807 provisions may vary from the provisions of this chapter if
808 ~~provided that required~~ minimum benefits and minimum standards
809 are met. However, any such variance must ~~shall~~ provide a greater
810 benefit for police officers. Actuarial valuations of local law



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811 plans shall be conducted by an enrolled actuary as provided in
812 s. 185.221(2)(b).

813 (14) "Minimum benefits" means the benefits specified in
814 ss. 185.01-185.341 and ss. 185.37-185.50.

815 (15) "Minimum standards" means the standards specified in
816 ss. 185.01-185.50.

817 (16)~~(11)~~ "Police officer" means any person who is elected,
818 appointed, or employed full time by a ~~any~~ municipality, who is
819 certified or required to be certified as a law enforcement
820 officer in compliance with s. 943.1395, who is vested with
821 authority to bear arms and make arrests, and whose primary
822 responsibility is the prevention and detection of crime or the
823 enforcement of the penal, criminal, traffic, or highway laws of
824 the state. The term ~~This definition~~ includes all certified
825 supervisory and command personnel whose duties include, in whole
826 or in part, the supervision, training, guidance, and management
827 responsibilities of full-time law enforcement officers, part-
828 time law enforcement officers, or auxiliary law enforcement
829 officers, but does not include part-time law enforcement
830 officers or auxiliary law enforcement officers as those terms
831 ~~the same~~ are defined in s. 943.10~~(6) and (8)~~, respectively. For
832 the purposes of this chapter only, the term also includes
833 ~~"police officer" also shall include~~ a public safety officer who
834 is responsible for performing both police and fire services. Any
835 plan may provide that the police chief shall have an option to
836 participate~~, or not,~~ in that plan.

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837 ~~(17)(12)~~ "Police Officers' Retirement Trust Fund" means a
838 trust fund, by whatever name known, as provided under s. 185.03
839 for the purpose of assisting municipalities in establishing and
840 maintaining a retirement plan for police officers.

841 ~~(18)(13)~~ "Retiree" or "retired police officer" means a
842 police officer who has entered retirement status. For the
843 purposes of a plan that includes a Deferred Retirement Option
844 Plan (DROP), a police officer who enters the DROP is ~~shall be~~
845 considered a retiree for all purposes of the plan. However, a
846 police officer who enters the DROP and who is otherwise eligible
847 to participate may ~~shall~~ not ~~thereby~~ be precluded from
848 participation or continued participation ~~participating, or~~
849 ~~continuing to participate,~~ in a supplemental plan in existence
850 on, or created after, March 12, 1999 ~~the effective date of this~~
851 ~~act.~~

852 ~~(19)(14)~~ "Retirement" means a police officer's separation
853 from municipal ~~city~~ employment as a police officer with
854 immediate eligibility for ~~receipt of~~ benefits under the plan.
855 For purposes of a plan that includes a Deferred Retirement
856 Option Plan (DROP), "retirement" means the date a police officer
857 enters the DROP.

858 (20) "Special act plan" means a plan subject to the
859 provisions of this chapter which was created by an act of the
860 Legislature and continues to require an act of the Legislature
861 to alter plan benefits.



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862 (21) "Special benefits" means benefits provided in a
863 defined contribution plan component for police officers.

864 (22)-(15) "Supplemental plan" means a plan to which
865 deposits of the premium tax moneys as provided in s. 185.08 are
866 made to provide special ~~extra~~ benefits to police officers, or
867 police officers and firefighters if both are ~~where~~ included,
868 ~~under this chapter~~. Such a plan is an element of a local law
869 plan and exists in conjunction with a defined benefit plan
870 component that meets ~~the~~ minimum benefits and minimum standards
871 ~~of this chapter~~. Any supplemental plan in existence on March 1,
872 2015, shall be deemed to be a defined contribution plan in
873 compliance with s. 185.35(6).

874 (23)-(16) "Supplemental plan municipality" means a any
875 local law municipality in which any ~~there existed~~ a supplemental
876 plan existed as of December 1, 2000.

877 Section 10. Subsection (8) is added to section 185.05,
878 Florida Statutes, to read:

879 185.05 Board of trustees; members; terms of office;
880 meetings; legal entity; costs; attorney's fees.—For any
881 municipality, chapter plan, local law municipality, or local law
882 plan under this chapter:

883 (8) (a) The board of trustees shall:

884 1. Provide a detailed accounting report of its expenses
885 for each fiscal year to the plan sponsor and the Department of
886 Management Services and make the report available to each member
887 of the plan and post the report on the board's website, if the



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888 board has a website. The report must include all administrative
889 expenses that, for purposes of this subsection, are expenses
890 relating to any legal counsel, actuary, plan administrator, and
891 all other consultants, and all travel and other expenses paid to
892 or on behalf of the members of the board of trustees or anyone
893 else on behalf of the plan.

894 2. Operate under an administrative expense budget for each
895 fiscal year, provide a copy of the budget to the plan sponsor,
896 and make available a copy of the budget to plan members before
897 the beginning of the fiscal year. If the board of trustees
898 amends the administrative expense budget, the board must provide
899 a copy of the amended budget to the plan sponsor and make
900 available a copy of the amended budget to plan members.

901 (b) Notwithstanding s. 185.35(2) and (3), a local law plan
902 created by special act before May 27, 1939, must comply with the
903 provisions of this subsection.

904 Section 11. Subsection (6) of section 185.06, Florida
905 Statutes, is amended to read:

906 185.06 General powers and duties of board of trustees.—For
907 any municipality, chapter plan, local law municipality, or local
908 law plan under this chapter:

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

911 (a) Employ independent legal counsel at the pension fund's
912 expense.



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

915 (c) Employ such independent professional, technical, or
916 other advisers as it deems necessary at the pension fund's
917 expense.

918
919 If the board chooses to use the municipality's or special
920 district's legal counsel or actuary, or chooses to use any of
921 the municipality's other professional, technical, or other
922 advisers, it must do so only under terms and conditions
923 acceptable to the board.

924 Section 12. Paragraph (d) of subsection (1) of section
925 185.07, Florida Statutes, is amended to read:

926 185.07 Creation and maintenance of fund.—For any
927 municipality, chapter plan, local law municipality, or local law
928 plan under this chapter:

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

932 (d) By payment by the municipality or other sources of a
933 sum equal to the normal cost and the amount required to fund any
934 actuarial deficiency shown by an actuarial valuation conducted
935 under as provided in part VII of chapter 112 after taking into
936 account the amounts described in paragraphs (b), (c), (e), (f),
937 and (g) and the tax proceeds described in paragraph (a) which



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938 are used to fund benefits provided in a defined benefit plan
939 component.

940
941 Nothing in this section shall be construed to require adjustment
942 of member contribution rates in effect on the date this act
943 becomes a law, including rates that exceed 5 percent of salary,
944 provided that such rates are at least one-half of 1 percent of
945 salary.

946 Section 13. Subsection (2) of section 185.16, Florida
947 Statutes, is amended to read:

948 185.16 Requirements for retirement.—For any municipality,
949 chapter plan, local law municipality, or local law plan under
950 this chapter, any police officer who completes 10 or more years
951 of creditable service as a police officer and attains age 55, or
952 completes 25 years of creditable service as a police officer and
953 attains age 52, and for such period has been a member of the
954 retirement fund is eligible for normal retirement benefits.

955 Normal retirement under the plan is retirement from the service
956 of the city on or after the normal retirement date. In such
957 event, for chapter plans and local law plans, payment of
958 retirement income will be governed by the following provisions
959 of this section:

960 (2) (a) The amount of the monthly retirement income payable
961 to a police officer who retires on or after his or her normal
962 retirement date shall be an amount equal to the number of the
963 police officer's years of credited service multiplied by 2.75 ~~2~~



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964 percent of his or her average final compensation. ~~However, if~~
965 ~~current state contributions pursuant to this chapter are not~~
966 ~~adequate to fund the additional benefits to meet the minimum~~
967 ~~requirements in this chapter, only increment increases shall be~~
968 ~~required as state moneys are adequate to provide. Such~~
969 ~~increments shall be provided as state moneys become available.~~

970 (b) Effective July 1, 2015, a plan that is in compliance
971 with this chapter except that the plan provides a benefit that
972 is less than 2.75 percent of the average final compensation of a
973 police officer for all years of credited service or provides an
974 effective benefit that is less than 2.75 percent as a result of
975 a maximum benefit limitation:

976 1. Must maintain, at a minimum, the percentage amount or
977 maximum benefit limitation in effect on July 1, 2015, and is not
978 required to increase the benefit to 2.75 percent of the average
979 final compensation of a police officer for all years of credited
980 service; or

981 2. If the plan changes the percentage amount or maximum
982 benefit limitation to 2.75 percent, or more, of the average
983 final compensation of a police officer for all years of credited
984 service, the plan may not thereafter decrease the percentage
985 amount or the maximum benefit limitation to less than 2.75
986 percent of the average final compensation of a police officer
987 for all years of credited service.

988 Section 14. Section 185.35, Florida Statutes, is amended
989 to read:



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990 185.35 Municipalities that have ~~having~~ their own
991 retirement pension plans for police officers. ~~For any~~
992 ~~municipality, chapter plan, local law municipality, or local law~~
993 ~~plan under this chapter,~~ In order for a municipality that has
994 its municipalities with their own retirement plan pension plans
995 for police officers, or for police officers and firefighters if
996 both are included, to participate in the distribution of the tax
997 fund established under pursuant to s. 185.08, a local law plan
998 plans must meet ~~the~~ minimum benefits and minimum standards,
999 except as provided in the mutual consent provisions in paragraph
1000 (1)(g) with respect to the minimum benefits not met as of
1001 October 1, 2012. set forth in this chapter:

1002 (1) If a municipality has a retirement pension plan for
1003 police officers, or for police officers and firefighters if both
1004 are included, which, in the opinion of the division, meets ~~the~~
1005 minimum benefits and minimum standards ~~set forth in this~~
1006 ~~chapter,~~ the board of trustees of the retirement pension plan
1007 must, ~~as approved by a majority of police officers of the~~
1008 ~~municipality, may:~~

1009 ~~(a)~~ place the income from the premium tax in s. 185.08 in
1010 such pension plan for the sole and exclusive use of its police
1011 officers, or its police officers and firefighters if both are
1012 included, where it shall become an integral part of that ~~pension~~
1013 plan and ~~shall~~ be used to fund benefits as provided herein.
1014 Effective October 1, 2015, for noncollectively bargained service



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1015 or upon entering into a collective bargaining agreement on or
1016 after July 1, 2015:

1017 (a) The base premium tax revenues must be used to fund
1018 minimum benefits or other retirement benefits in excess of the
1019 minimum benefits as determined by the municipality.

1020 (b) Of the additional premium tax revenues received that
1021 are in excess of the amount received for the 2012 calendar year,
1022 50 percent must be used to fund minimum benefits or other
1023 retirement benefits in excess of the minimum benefits as
1024 determined by the municipality, and 50 percent must be placed in
1025 a defined contribution plan component to fund special benefits.

1026 (c) Additional premium tax revenues not described in
1027 paragraph (b) must be used to fund benefits that are not
1028 included in the minimum benefits. If the additional premium tax
1029 revenues subject to this paragraph exceed the full annual cost
1030 of benefits provided through the plan which are in excess of the
1031 minimum benefits, any amount in excess of the full annual cost
1032 must be used as provided in paragraph (b).

1033 (d) Of any accumulations of additional premium tax
1034 revenues which have not been allocated to fund benefits in
1035 excess of the minimum benefits, 50 percent of the amount of the
1036 accumulations must be used to fund special benefits and 50
1037 percent must be applied to fund any unfunded actuarial
1038 liabilities of the plan; provided that any amount of
1039 accumulations in excess of the amount required to fund the
1040 unfunded actuarial liabilities must be used to fund special



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1041 ~~benefits pay extra benefits to the police officers included in~~
1042 ~~that pension plan; or~~

1043 ~~(b) May place the income from the premium tax in s. 185.08~~
1044 ~~in a separate supplemental plan to pay extra benefits to the~~
1045 ~~police officers, or police officers and firefighters if~~
1046 ~~included, participating in such separate supplemental plan.~~

1047 (e) For a plan created after March 1, 2015, 50 percent of
1048 the insurance premium tax revenues must be used to fund defined
1049 benefit plan component benefits, with the remainder used to fund
1050 defined contribution plan component benefits.

1051 (f) If a plan offers benefits in excess of the minimum
1052 benefits, such benefits, excluding supplemental plan benefits in
1053 effect as of September 30, 2014, may be reduced if the plan
1054 continues to meet minimum benefits and the minimum standards.
1055 The amount of insurance premium tax revenues previously used to
1056 fund benefits in excess of the minimum benefits before the
1057 reduction, excluding the amount of any additional premium tax
1058 revenues distributed to a supplemental plan for the 2012
1059 calendar year, must be used as provided in paragraph (b).
1060 However, benefits in excess of the minimum benefits may not be
1061 reduced if a plan does not meet the minimum percentage amount of
1062 2.75 percent of the average final compensation of a police
1063 officer or provides an effective benefit that is less than 2.75
1064 percent as a result of a maximum benefit limitation, as
1065 described in s. 185.16(2)(b).



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1066 (g) Notwithstanding paragraphs (a)-(f), the use of premium
1067 tax revenues, including any accumulations of additional premium
1068 tax revenues which have not been allocated to fund benefits in
1069 excess of the minimum benefits, may deviate from the provisions
1070 of this subsection by mutual consent of the members' collective
1071 bargaining representative or, if none, by a majority of the
1072 police officer members of the fund, and by consent of the
1073 municipality, provided that the plan continues to meet minimum
1074 benefits and minimum standards; however, a plan that operates
1075 pursuant to this paragraph and does not meet the minimum
1076 benefits as of October 1, 2012, may continue to provide the
1077 benefits that do not meet the minimum benefits at the same level
1078 as was provided as of October 1, 2012, and all other benefit
1079 levels must continue to meet the minimum benefits. Such mutually
1080 agreed deviation must continue until modified or revoked by
1081 subsequent mutual consent of the members' collective bargaining
1082 representative or, if none, by a majority of the police officer
1083 members of the fund, and the municipality. An existing
1084 arrangement for the use of premium tax revenues contained within
1085 a special act plan or a plan within a supplemental plan
1086 municipality is considered, as of July 1, 2015, to be a
1087 deviation for which mutual consent has been granted.

1088 (2) The premium tax provided by this chapter ~~must shall in~~
1089 ~~all cases~~ be used in its entirety to provide retirement ~~extra~~
1090 benefits to police officers, or to police officers and
1091 firefighters if both are included. ~~However, local law plans in~~



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1092 ~~effect on October 1, 1998, must comply with the minimum benefit~~
1093 ~~provisions of this chapter only to the extent that additional~~
1094 ~~premium tax revenues become available to incrementally fund the~~
1095 ~~cost of such compliance as provided in s. 185.16(2). If a plan~~
1096 ~~is in compliance with such minimum benefit provisions, as~~
1097 ~~subsequent additional tax revenues become available, they shall~~
1098 ~~be used to provide extra benefits.~~ Local law plans created by
1099 special act before May 27, 1939, shall be deemed to comply with
1100 this chapter. For the purpose of this chapter, the term:

1101 ~~(a) "Additional premium tax revenues" means revenues~~
1102 ~~received by a municipality pursuant to s. 185.10 which exceed~~
1103 ~~the amount received for calendar year 1997.~~

1104 ~~(b) "Extra benefits" means benefits in addition to or~~
1105 ~~greater than those provided to general employees of the~~
1106 ~~municipality and in addition to those in existence for police~~
1107 ~~officers on March 12, 1999.~~

1108 (3) A retirement plan or amendment to a retirement plan
1109 may not be proposed for adoption unless the proposed plan or
1110 amendment contains an actuarial estimate of the costs involved.
1111 Such proposed plan or proposed plan change may not be adopted
1112 without the approval of the municipality or, where required
1113 ~~permitted~~, the Legislature. Copies of the proposed plan or
1114 proposed plan change and the actuarial impact statement of the
1115 proposed plan or proposed plan change shall be furnished to the
1116 division before the last public hearing on the proposal is held
1117 ~~thereon~~. Such statement must also indicate whether the proposed



Amendment No.

1118 plan or proposed plan change is in compliance with s. 14, Art. X
1119 of the State Constitution and those provisions of part VII of
1120 chapter 112 which are not expressly provided in this chapter.
1121 Notwithstanding any other provision, only those local law plans
1122 created by special act of legislation before May 27, 1939, are
1123 deemed to meet the minimum benefits and minimum standards only
1124 in this chapter.

1125 (4) Notwithstanding any other provision, with respect to
1126 any supplemental plan municipality:

1127 (a) Section 185.02(6)(a) ~~185.02(4)(a)~~ does not apply, and
1128 a local law plan and a supplemental plan may continue to use
1129 their definition of compensation or salary in existence on March
1130 12, 1999.

1131 (b) A local law plan and a supplemental plan must continue
1132 to be administered by a board or boards of trustees numbered,
1133 constituted, and selected as the board or boards were numbered,
1134 constituted, and selected on December 1, 2000.

1135 ~~(c) The election set forth in paragraph (1)(b) is deemed~~
1136 ~~to have been made.~~

1137 (5) The retirement plan setting forth the benefits and the
1138 trust agreement, if any, covering the duties and
1139 responsibilities of the trustees and the regulations of the
1140 investment of funds must be in writing and copies made available
1141 to the participants and to the general public.

1142 (6) In addition to the defined benefit component of the
1143 local law plan, each plan sponsor must have a defined



Amendment No.

1144 contribution plan component within the local law plan by October
1145 1, 2015, for noncollectively bargained service, upon entering
1146 into a collective bargaining agreement on or after July 1, 2015,
1147 or upon the creation date of a new participating plan. Depending
1148 upon the application of subsection (1), a defined contribution
1149 component may or may not receive any funding.

1150 (7) Notwithstanding any other provision of this chapter, a
1151 municipality that has implemented or proposed changes to a local
1152 law plan based on the municipality's reliance on an
1153 interpretation of this chapter by the Department of Management
1154 Services on or after August 14, 2012, and before March 3, 2015,
1155 may continue the implemented changes or continue to implement
1156 proposed changes. Such reliance must be evidenced by a written
1157 collective bargaining proposal or agreement, or formal
1158 correspondence between the municipality and the Department of
1159 Management Services which describes the specific changes to the
1160 local law plan, with the initial proposal, agreement, or
1161 correspondence from the municipality dated before March 3, 2015.
1162 Changes to the local law plan which are otherwise contrary to
1163 minimum benefits and minimum standards may continue in effect
1164 until the earlier of October 1, 2018, or the effective date of a
1165 collective bargaining agreement that is contrary to the changes
1166 to the local law plan.

1167 Section 15. The Legislature finds that a proper and
1168 legitimate state purpose is served when employees and retirees
1169 of this state and its political subdivisions, and the



Amendment No.

1170 dependents, survivors, and beneficiaries of such employees and
 1171 retirees, are extended the basic protections afforded by
 1172 governmental retirement systems that provide fair and adequate
 1173 benefits and that are managed, administered, and funded in an
 1174 actuarially sound manner as required under s. 14, Article X of
 1175 the State Constitution and part VII of chapter 112, Florida
 1176 Statutes. Therefore, the Legislature determines and declares
 1177 that this act fulfills an important state interest.

1178 Section 16. This act shall take effect July 1, 2015.

1179

1180

1181

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

1182

Remove everything before the enacting clause and insert:

1183

An act relating to local government pension reform;

1184

amending s. 175.021, F.S.; requiring that firefighter

1185

pension plans meet the requirements of ch. 175, F.S.,

1186

in order to receive certain insurance premium tax

1187

revenues; amending s. 175.032, F.S.; revising

1188

definitions to conform to changes made by the act and

1189

providing new definitions; amending s. 175.061, F.S.;

1190

requiring the board of trustees of the firefighters'

1191

pension trust fund to provide a detailed accounting

1192

report of its expenses and to make the report

1193

available; requiring the board to operate under an

1194

administrative expense budget; providing

1195

applicability; amending s. 175.071, F.S.; conforming a



Amendment No.

1196 cross-reference; amending s. 175.091, F.S.; revising
1197 the method of creating and maintaining a firefighters'
1198 pension trust fund; amending s. 175.162, F.S.;
1199 deleting a provision basing the availability of
1200 additional benefits in a firefighter pension plan upon
1201 state funding; revising the calculation of monthly
1202 retirement income for a full-time firefighter;
1203 specifying the minimum benefits that must be
1204 maintained by certain firefighter pension plans after
1205 a specified date; amending s. 175.351, F.S.; exempting
1206 certain firefighter pension plans of a municipality or
1207 special fire control district from meeting certain
1208 minimum benefits in order to participate in the
1209 distribution of a premium tax; redesignating the term
1210 "pension plan" as "retirement plan"; revising criteria
1211 governing the use of revenues of the premium tax;
1212 authorizing a pension plan to reduce certain excess
1213 benefits if the plan continues to meet certain minimum
1214 benefits and standards; providing that the use of
1215 premium tax revenues may deviate from the requirements
1216 of ch. 175, F.S., under certain circumstances;
1217 revising the conditions for proposing the adoption of
1218 a pension plan or an amendment to a pension plan;
1219 requiring plan sponsors to have a defined contribution
1220 plan component in place by a certain date; authorizing
1221 a municipality or special fire control district to

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1222 implement certain changes to a local law plan which
1223 are contrary to ch. 175, F.S., for a limited time,
1224 under certain circumstances; amending s. 185.01, F.S.;
1225 requiring that police officer pension plans meet the
1226 requirements of ch. 185, F.S., in order to receive
1227 certain insurance premium tax revenues; amending s.
1228 185.02, F.S.; revising definitions to conform to
1229 changes made by the act and providing new definitions;
1230 revising applicability of the limitation on the amount
1231 of overtime payments which may be used for pension
1232 benefit calculations; amending s. 185.05, F.S.;
1233 requiring the board of trustees of the municipal
1234 police officers' retirement trust fund to provide a
1235 detailed accounting report of its expenses and to make
1236 the report available; requiring the board to operate
1237 under an administrative expense budget; providing
1238 applicability; amending s. 185.06, F.S.; conforming a
1239 cross-reference; amending s. 185.07, F.S.; revising
1240 the method of creating and maintaining a police
1241 officers' retirement trust fund; amending s. 185.16,
1242 F.S.; deleting a provision basing the availability of
1243 additional benefits in a police officer pension plan
1244 upon state funding; revising the calculation of
1245 monthly retirement income for a police officer;
1246 specifying the minimum benefits that must be
1247 maintained by certain police officer pension plans

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1248 after a specified date; amending s. 185.35, F.S.;

1249 exempting certain municipal police officer pension

1250 plans from meeting certain minimum benefits in order

1251 to participate in the distribution of a premium tax;

1252 redesignating the term "pension plan" as "retirement

1253 plan"; revising criteria governing the use of revenues

1254 from the premium tax; authorizing a plan to reduce

1255 certain excess benefits if the plan continues to meet

1256 certain minimum benefits and minimum standards;

1257 providing that the use of premium tax revenues may

1258 deviate from the requirements of ch. 185, F.S., under

1259 specified circumstances; revising the conditions for

1260 proposing the adoption of a pension plan or amendment

1261 to a pension plan; conforming a cross-reference;

1262 requiring plan sponsors to have a defined contribution

1263 plan component in place by a certain date; authorizing

1264 a municipality to implement certain changes to a local

1265 law plan which are contrary to ch. 185, F.S., for a

1266 limited time; providing a declaration of important

1267 state interest; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 371 Agency Inspectors General
SPONSOR(S): Appropriations Committee; Government Operations Subcommittee; Raulerson
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 1304

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	11 Y, 1 N, As CS	Harrington	Williamson
2) Appropriations Committee	20 Y, 5 N, As CS	Kramer	Leznoff
3) State Affairs Committee		Harrington	Camechis

SUMMARY ANALYSIS

The Office of Inspector General (OIG) is established in each agency to provide a central point for the coordination and responsibility for activities that promote accountability, integrity, and efficiency in government. Inspectors general under the jurisdiction of the Cabinet or the Governor and Cabinet are appointed by the agency head and may only be removed by the agency head. Inspectors general under the jurisdiction of the Governor are appointed by the Chief Inspector General (CIG) and may only be removed by the CIG. The CIG within the Executive Office of the Governor provides oversight and monitors the activities of the agency inspectors general under the Governor's jurisdiction.

The bill amends provisions related to inspector generals and the CIG. Specifically, the bill:

- Requires a national search for an inspector general to be initiated within 60 days after a vacancy or anticipated vacancy of a position of inspector general.
- Prohibits a former or current elected official from being appointed as an inspector general within five years after the end of his or her term of office, but provides exceptions.
- Adds additional qualifications for the position of inspector general for agencies under the jurisdiction of the Governor, which include certification, education, and experience requirements.
- Prohibits an inspector general, or an officer or employee of an OIG, from holding or running for elective office with the state, county or other political subdivision or holding office in a political party or committee.
- Provides that an inspector general must have access to a building or facility that is owned, operated, or leased by a department, agency, board, or commission, or a property held in trust to the state if the inspector general deems such access necessary to carry out his or her duties.
- Requires other agency, district, or commission personnel to cooperate with an inspector general.
- Beginning July 1, 2015, requires a statement in each contract or program for every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to require cooperation with the inspector general.
- Authorizes the CIG to hire or retain legal counsel.
- Authorizes the CIG to issue and enforce subpoenas relating to agencies under the jurisdiction of the Governor.

The bill may have a fiscal impact on state and local governments, though costs are expected to be minimal.

The bill has an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Inspectors General

Authorized under s. 20.055, F.S., the Office of Inspector General (OIG) is established in each state agency¹ to provide a central point for the coordination and responsibility for activities that promote accountability, integrity, and efficiency in government. Section 14.32, F.S., creates the Office of the Chief Inspector General (CIG) within the Executive Office of the Governor. The CIG monitors the activities of the agency inspectors general under the Governor's jurisdiction.

Each agency OIG is responsible for the following:

- Advising in the development of performance measures, standards, and procedures for the evaluation of state agency programs;
- Assessing the reliability and validity of information provided by the agency on performance measures and standards;
- Reviewing the actions taken by the agency to improve agency performance, and making recommendations, if necessary;
- Supervising and coordinating audits, investigations, and reviews relating to the operations of the state agency;
- Conducting, supervising, or coordinating other activities carried out or financed by the agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;
- Providing central coordination of efforts to identify and remedy waste, abuse, and deficiencies to the agency head,² or the CIG for agency's under the jurisdiction of the Governor, and recommending corrective action concerning fraud, abuses, and deficiencies, and reporting on the progress made in implementing corrective action;
- Coordinating agency-specific audit activities between the Auditor General, federal auditors, and other governmental bodies to avoid duplication;
- Reviewing rules relating to the programs and operations of the agency and making recommendations concerning their impact;
- Ensuring that an appropriate balance is maintained between audit, investigative, and other accountability activities; and
- Complying with the General Principles and Standards for Offices of Inspector General as published and revised by the Association of Inspectors General.³

Inspectors general are appointed by the agency head. For agencies under the jurisdiction of the Governor, the inspector general is appointed by the CIG.⁴ The agency head or the CIG must notify the

¹ Section 20.055(1)(d), F.S., defines "state agency" as each department created pursuant to chapter 20, F.S., and also includes the Executive Office of the Governor, the Department of Military Affairs, the Fish and Wildlife Conservation Commission, the Office of Insurance Regulation of the Financial Services Commission, the Office of Financial Regulation of the Financial Services Commission, the Public Service Commission, the Board of Governors of the State University System, the Florida Housing Finance Corporation, the Agency for State Technology, and the state court system.

² Section 20.055(1)(a), F.S., defines "agency head" as the Governor, a Cabinet officer, a secretary as defined in s. 20.03(5), F.S., or an executive director as defined in s. 20.03(6), F.S. It also includes the chair of the Public Service Commission, the Director of the Office of Insurance Regulation of the Financial Services Commission, the Director of the Office of Financial Regulation of the Financial Services Commission, the board of directors of the Florida Housing Finance Corporation, and the Chief Justice of the State Supreme Court.

³ Section 20.055(2), F.S.

⁴ Section 20.055(3)(a), F.S.

Governor in writing, at least seven days prior to an offer of employment, of the intention to hire an inspector general.⁵

Each inspector general must report to and be under the general supervision of the agency head and is not subject to supervision by any other employee of the state agency.⁶ For state agencies under the jurisdiction of the Governor, the inspector general must be under the general supervision of the agency head, report to the CIG, and may hire and remove staff within the OIG in consultation with the CIG but independently of the state agency.⁷

Inspectors general may be removed only by the agency head. For state agencies under the jurisdiction of the Governor, the inspector general only may be removed by the CIG for cause.⁸ The CIG must notify the Governor in writing of his or her intention to remove the inspector general at least 21 days before the removal. For the other agencies, the agency head must notify the Governor in writing of the intention to terminate the inspector general, at least 21 days prior to the removal.⁹ If the inspector general disagrees with the removal, the inspector general may present written objections to the Governor within the 21-day period.¹⁰

Auditing Standards

Inspectors general must possess minimum education and experience qualifications, and the investigations they conduct must adhere to specific internal auditing standards.¹¹ To ensure agency audits are performed in accordance with applicable auditing standards, the inspector general or the director of auditing within the OIG must possess the following qualifications:¹²

- A bachelor's degree from an accredited college or university with a major in accounting, or with a major in business which includes five courses in accounting, and five years of experience as an internal auditor or independent postauditor, electronic data processing auditor, accountant, or any combination thereof. The experience must at a minimum consist of audits of units of government or private business enterprises, operating for profit or not for profit;
- A master's degree in accounting, business administration, or public administration from an accredited college or university and four years of experience; or
- A certified public accountant license or certified internal audit certificate issued by the Institute of Internal Auditors or earned by examination, and four years of experience.

Each inspector general must review and evaluate internal controls necessary to ensure the fiscal accountability of the state agency.¹³ The inspector general must conduct financial, compliance, electronic data processing, and performance audits of the agency and prepare audit reports of his or her findings. The performance of the audit must be under the direction of the inspector general, except that if the inspector general does not possess the specified qualifications, the director of auditing must perform the auditing functions.¹⁴

Audits must be conducted in accordance with the current Standards for the Professional Practice of Internal Auditing as published by the Institute of Internal Auditors, Inc., or where appropriate, in accordance with generally accepted governmental auditing standards. All audit reports issued by internal audit staff must include a statement that the audit was conducted pursuant to the appropriate standards.¹⁵

⁵ *Id.*

⁶ Section 20.055(3)(b), F.S.

⁷ *Id.*

⁸ Section 20.055(3)(c), F.S.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *See s.* 20.055(4), F.S.

¹² Section 20.055(4), F.S.

¹³ Section 20.055(5), F.S.

¹⁴ *Id.*

¹⁵ Section 20.055(5)(a), F.S.

Audit work papers and reports are considered public records to the extent they do not include information that has been made confidential and exempt from the provisions of s. 119.07(1), F.S., or contain information protected under the Whistle-blower's Act.¹⁶

The inspector general must have access to any records, data, and other information of the state agency he or she deems necessary to carry out his or her duties. The inspector general is authorized to request such information or assistance as may be necessary from the state agency or from any federal, state, or local governmental entity.¹⁷

At the conclusion of each audit, the inspector general must submit preliminary findings and recommendations to the person responsible for supervision of the program function or operational unit who must respond to any adverse findings within 20 working days after receipt of the preliminary findings. Such response, and the inspector general's rebuttal to the response, must be included in the final audit report.¹⁸ Final reports are submitted to the agency head and the Auditor General and, for state agencies under the jurisdiction of the Governor, the Chief Inspector General.¹⁹

The Auditor General, in connection with the independent post-audit of the same agency, must give appropriate consideration to internal audit reports and the resolution of findings therein. The Legislative Auditing Committee may inquire into the reasons or justifications for failure of the agency head to correct the deficiencies reported in internal audits that are also reported by the Auditor General and must take appropriate action.²⁰

The inspector general must monitor the implementation of the state agency's response to any report on the state agency issued by the Auditor General or by the Office of Program Policy Analysis and Government Accountability (OPPAGA). No later than six months after the Auditor General or OPPAGA publishes a report on the state agency, the inspector general must provide a written response to the agency head on the status of corrective actions taken. The inspector general must file a copy of such response with the Legislative Auditing Committee.²¹

The inspector general must develop long-term and annual audit plans based on the findings of periodic risk assessments. The plan, where appropriate, should include post-audit samplings of payments and accounts. For state agencies under the Governor, the audit plans are submitted to the CIG. The plan is submitted to the agency head for approval, and a copy of the approved plan must be submitted to the Auditor General.²²

In carrying out its investigative duties and responsibilities, each inspector general must initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government. For these purposes, each inspector general must do the following:²³

¹⁶ Section 20.055(5)(b), F.S. Sections 112.3187 – 112.31895, F.S., may be cited as the "Whistle-blower's Act." According to the act, it is the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against an employee who reports to an appropriate agency violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public's health, safety, or welfare. It is further the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against any person who discloses information to an appropriate agency alleging improper use of government office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee. Section 112.3187(2), F.S.

¹⁷ Section 20.055(5)(c), F.S.

¹⁸ Section 20.055(5)(d), F.S.

¹⁹ Section 20.055(5)(f), F.S.

²⁰ Section 20.055(5)(g), F.S.

²¹ Section 20.055(5)(h), F.S.

²² Section 20.055(5)(i), F.S.

²³ Section 20.055(6), F.S.

- Receive complaints and coordinate all activities of the agency as required by the Whistle-blower's Act;
- Receive and consider the complaints that do not meet the criteria for an investigation under the Whistle-blower's Act and conduct, supervise, or coordinate such inquiries, investigations, or reviews as the inspector general deems appropriate;
- Report expeditiously to the Department of Law Enforcement or other law enforcement agencies, as appropriate, when the inspector general has reasonable grounds to believe there has been a violation of criminal law;
- Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the inspector general or the inspector general's office. This must include freedom from any interference with investigations and timely access to records and other sources of information;
- At the conclusion of an audit the subject of which is an entity contracting with the state or an individual substantially affected, submit the findings to the contracting entity or the individual substantially affected, who must be advised that they may submit a written response to the findings. The response and the inspector general's rebuttal to the response, if any, must be included in the final audit report; and
- Submit in a timely fashion final reports on investigations conducted by the inspector general to the agency head.

Annually, each inspector general must submit a report to the agency head on its activities. For agencies under the jurisdiction of the Governor, the inspector general provides the report to the CIG.²⁴

Effect of the Proposed Changes

Agency Inspector Generals

Definition of "State Agency"

The bill adds the State Board of Administration (SBA) and the Office of Early Learning (Office) to the definition of "state agency" within s. 20.055, F.S. The bill also adds the executive director of the SBA and Office to the definition of "agency head." As such, both entities must establish an OIG and comply with the requirements of s. 20.055, F.S.

Vacancies in Position

The bill provides that within 60 days after a vacancy or anticipated vacancy in the position of inspector general, the agency head or, for agencies under the jurisdiction of the Governor, the CIG, must initiate a national search for an inspector general and must set the salary of the inspector general. In the event of a vacancy, an interim inspector general may be appointed until a successor inspector general is appointed.

Prohibitions

The bill provides that a former or current elected official may not be appointed inspector general within five years after the end of such individual's period of service. The restriction does not prohibit the reappointment of a current inspector general.

The bill prohibits the inspector general from holding, or being a candidate for, an elective office with the state or any municipality or political subdivision of the state while inspector general, and prohibits a current officer or employee of an OIG from holding, or being a candidate for, such an elected office. The inspector general may not hold office in a political party or political committee. In addition, an employee of an OIG may not hold office in a political party or political committee while employed in the OIG.

²⁴ Section 20.055(7), F.S.
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Requirements

The bill creates additional requirements for an inspector general within an agency under the jurisdiction of the Governor. Upon appointment the inspector general must possess, or must obtain within the first year after appointment, a certification from the Association of Inspectors General as a certified inspector general. The bill provides that an inspector general must have one or more other professional certifications, such as certified inspector general investigator, certified inspector general auditor, certified public accountant, certified internal auditor, certified governmental financial manager, certified fraud examiner, certified financial crimes investigator or other related certification, or be a licensed attorney.

For agencies under the jurisdiction of the Governor, the inspector general must be selected without regard to political affiliation and on the basis of integrity, leadership capability, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, criminal justice administration, or other closely related field. The inspector general is subject to a level two background screening. In addition, the inspector general must have a four year degree from an accredited institution of higher learning or have at least five years of experience in at least one of the following areas:

- Inspector general;
- Supervisory experience in an OIG or investigative public agency similar to an OIG;
- Local, state, or federal law enforcement officer;
- Local, state, or federal court judge;
- Senior-level auditor or comptroller;
- The administration and management of complex audits and investigations; or
- Managing programs for prevention, examination, detection, elimination of fraud, waste, abuse, mismanagement, malfeasance or misconduct in government or organizations.

An advanced degree in law, accounting, public administration, or other relevant field may substitute for one year of required experience.

Audits and Investigations

The bill provides that the inspector general, at all times, must have access to a building or facility that is owned, operated, or leased by a department, agency, board, or commission, or a property held in trust to the state if the inspector general deems such access necessary to carry out his or her duties. Current law only provides that the inspector general must have access to any records, data, and other information of the state agency he or she deems necessary to carry out his or her duties.

The bill provides that it is the duty of every state officer, employee, agency, special district, board, commission, contractor and subcontractor to cooperate with the inspector general. Beginning July 1, 2015, each contract, bid, proposal, and application or solicitation for a contract must contain a statement that the corporation, partnership, or person understands and will abide by this requirement.

Chief Inspector General

The bill authorizes the CIG to hire or retain legal counsel. The bill authorizes the CIG to issue and enforce subpoenas under certain circumstances. Specifically, the bill authorizes the CIG to issue and serve subpoenas and subpoenas duces tecum for agencies under the jurisdiction of the Governor to compel the attendance of witnesses and the production of documents, reports, answers, records, accounts, and other data in any medium. The bill also provides that the CIG may require or permit a person to file a statement in writing, under oath or otherwise, as to all facts and circumstances concerning the matter to be audited, examined, or investigated. In the event of noncompliance with a subpoena, the CIG may petition the circuit court of the county in which the person subpoenaed resides or has his or her principal place of business for an order requiring the subpoenaed person to appear and testify and to produce documents, reports, answers, records, accounts, or other data as specified in the subpoena. Currently, the CIG does not have the authority to issue subpoenas.

B. SECTION DIRECTORY:

Section 1. amends s. 20.055, F.S., providing additional hiring requirements, employment qualifications, for inspectors general and staff; specifying additional records and personnel accessible to inspectors general during an audit or investigation.

Section 2. amends s. 14.32, F.S., authorizing the CIG to retain legal counsel and issue and enforce subpoenas under certain circumstances.

Section 3. provides an effective date of July 1, 2015.

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:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

State Expenditure Impact

Requiring a national search for each vacancy in an agency inspector general position may slow down the hiring of inspector generals. Such a search also may have associated costs with advertising and interviewing applicants outside of the geographic locale. Requiring additional training requirements may have a fiscal impact on the agency; specialized training will have associated travel and course registration costs. These costs are expected to be minimal.

The bill provides that the CIG may hire or retain legal counsel, which will have a negative fiscal impact on the Office of the CIG.

The bill requires the Office of Early Learning and the State Board of Administration to have an inspector general. Both entities currently have an inspector general position so this requirement will not have a fiscal impact.

Local Government Expenditure Impact

The bill provides that every state officer, employee, agency, special district, board, commission, contractor and subcontractor must cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. Depending on the nature of the inspection or audit, local governments

may be required to cooperate and assist an inspector general. As a result, there may be an indeterminate negative fiscal impact on local governments. These costs are expected to be minimal.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18, of the Florida Constitution may apply because this bill requires certain local governmental entities to cooperate with an inspector general and provide specified assistance. However, an exemption may apply as the fiscal impact will likely be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 24, 2015, the Government Operations Subcommittee adopted a strike-all amendment and reported the bill favorably with committee substitute. The committee substitute:

- Adds the SBA and Office of Early Learning to the definition of "state agency" for purposes of requiring the establishment of an OIG within each entity;
- Reduces the initial term, and each subsequent term, of an inspector general to three years, rather than five years;
- Removes the authority for an inspector general to create divisions within the OIG;
- Clarifies that the new education and experience requirements only pertain to an inspector general in an agency under the jurisdiction of the Governor; and
- Deletes the prohibition of participating in a political campaign or making a political contribution or endorsement.

On March 31, 2015, the Appropriations Committee adopted two amendments and reported the bill favorably with committee substitute. The first amendment:

- Removed language from the bill relating to the term of office of an inspector general;
- Removed the terms "licensee" and "applicant for certification of eligibility for a contract or program" from the provision creating a duty of certain entities to cooperate with an inspector general;
- Limited the provision requiring that an inspector general have access to a building or facility that is owned, operated or leased by a department, agency, board or commission to circumstances in which the access is necessary for the inspector general to carry out his or her duties;
- Limited the prohibition on an inspector general holding or being an candidate for elective office to only apply to elective office with the state, or any municipality, county, or other political subdivision of the state; and
- Clarified that the requirement that each contract, bid, proposal, and application or solicitation for a contract must contain a statement that the corporation, partnership, or person understands and will abide by the requirement to cooperate with the inspector general is prospective.

The second amendment provided that the authority of the Chief Inspector General to issue or serve subpoenas and subpoenas duces tecum relates only to agencies under the jurisdiction of the Governor.

This analysis is drafted to the committee substitute as approved by the Appropriations Committee.

1 A bill to be entitled
 2 An act relating to agency inspectors general; amending
 3 s. 20.055, F.S.; revising definitions; providing
 4 additional hiring requirements, employment
 5 qualifications, and terms of employment for inspectors
 6 general and staff; specifying additional records,
 7 facilities, property, and personnel accessible to
 8 inspectors general during an audit or investigation;
 9 amending s. 14.32, F.S.; authorizing the Chief
 10 Inspector General to retain legal counsel and issue
 11 and enforce subpoenas under certain circumstances;
 12 providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Section 20.055, Florida Statutes, is amended to
 17 read:

18 20.055 Agency inspectors general.—

19 (1) As used in this section, the term:

20 (a) "Agency head" means the Governor, a Cabinet officer,
 21 or a secretary or executive director as those terms are defined
 22 in s. 20.03, the chair of the Public Service Commission, the
 23 Director of the Office of Insurance Regulation of the Financial
 24 Services Commission, the Director of the Office of Financial
 25 Regulation of the Financial Services Commission, the board of
 26 directors of the Florida Housing Finance Corporation, the

27 executive director of the State Board of Administration, the
 28 executive director of the Office of Early Learning, and the
 29 Chief Justice of the State Supreme Court.

30 (b) "Entities contracting with the state" means for-profit
 31 and not-for-profit organizations or businesses that have a legal
 32 existence, such as corporations or partnerships, as opposed to
 33 natural persons, which have entered into a relationship with a
 34 state agency to provide for consideration certain goods or
 35 services to the state agency or on behalf of the state agency.
 36 The relationship may be evidenced by payment by warrant or
 37 purchasing card, contract, purchase order, provider agreement,
 38 or other such mutually agreed upon relationship. The term does
 39 not apply to entities that are the subject of audits or
 40 investigations conducted pursuant to ss. 112.3187-112.31895 or
 41 s. 409.913 or which are otherwise confidential and exempt under
 42 s. 119.07.

43 (c) "Individuals substantially affected" means natural
 44 persons who have established a real and sufficiently immediate
 45 injury in fact due to the findings, conclusions, or
 46 recommendations of a final report of a state agency inspector
 47 general, who are the subject of the audit or investigation, and
 48 who do not have or are not currently afforded an existing right
 49 to an independent review process. The term does not apply to
 50 employees of the state, including career service, probationary,
 51 other personal service, Selected Exempt Service, and Senior
 52 Management Service employees; former employees of the state if

53 the final report of the state agency inspector general relates
 54 to matters arising during a former employee's term of state
 55 employment; or persons who are the subject of audits or
 56 investigations conducted pursuant to ss. 112.3187-112.31895 or
 57 s. 409.913 or which are otherwise confidential and exempt under
 58 s. 119.07.

59 (d) "State agency" means each department created pursuant
 60 to this chapter and the Executive Office of the Governor, the
 61 Department of Military Affairs, the Fish and Wildlife
 62 Conservation Commission, the Office of Insurance Regulation of
 63 the Financial Services Commission, the Office of Financial
 64 Regulation of the Financial Services Commission, the Public
 65 Service Commission, the Board of Governors of the State
 66 University System, the Florida Housing Finance Corporation, the
 67 Agency for State Technology, the State Board of Administration,
 68 the Office of Early Learning, and the state courts system.

69 (2) An ~~The~~ office of inspector general is established in
 70 each state agency to provide a central point for coordination of
 71 and responsibility for activities that promote accountability,
 72 integrity, and efficiency in government. It is the duty and
 73 responsibility of each inspector general, with respect to the
 74 state agency in which the office is established, to:

75 (a) Advise in the development of performance measures,
 76 standards, and procedures for the evaluation of state agency
 77 programs.

78 (b) Assess the reliability and validity of the information

79 provided by the state agency on performance measures and
 80 standards, and make recommendations for improvement, if
 81 necessary, before submission of such information pursuant to s.
 82 216.1827.

83 (c) Review the actions taken by the state agency to
 84 improve program performance and meet program standards and make
 85 recommendations for improvement, if necessary.

86 (d) Provide direction for, supervise, and coordinate
 87 audits, investigations, and management reviews relating to the
 88 programs and operations of the state agency, except that when
 89 the inspector general does not possess the qualifications
 90 specified in subsection (4), the director of auditing shall
 91 conduct such audits.

92 (e) Conduct, supervise, or coordinate other activities
 93 carried out or financed by that state agency for the purpose of
 94 promoting economy and efficiency in the administration of, or
 95 preventing and detecting fraud and abuse in, its programs and
 96 operations.

97 (f) Keep the agency head or, for state agencies under the
 98 jurisdiction of the Governor, the Chief Inspector General
 99 informed concerning fraud, abuses, and deficiencies relating to
 100 programs and operations administered or financed by the state
 101 agency, recommend corrective action concerning fraud, abuses,
 102 and deficiencies, and report on the progress made in
 103 implementing corrective action.

104 (g) Ensure effective coordination and cooperation between

105 the Auditor General, federal auditors, and other governmental
 106 bodies with a view toward avoiding duplication.

107 (h) Review, as appropriate, rules relating to the programs
 108 and operations of such state agency and make recommendations
 109 concerning their impact.

110 (i) Ensure that an appropriate balance is maintained
 111 between audit, investigative, and other accountability
 112 activities.

113 (j) Comply with the General Principles and Standards for
 114 Offices of Inspector General as published and revised by the
 115 Association of Inspectors General.

116 (3)(a)1. For state agencies under the jurisdiction of the
 117 Cabinet or the Governor and Cabinet, the inspector general shall
 118 be appointed by the agency head. For state agencies under the
 119 jurisdiction of the Governor, the inspector general shall be
 120 appointed by the Chief Inspector General. The agency head or
 121 Chief Inspector General shall notify the Governor in writing of
 122 his or her intention to hire the inspector general at least 7
 123 days before an offer of employment. The inspector general shall
 124 be appointed without regard to political affiliation.

125 2. Within 60 days after a vacancy or anticipated vacancy
 126 in the position of inspector general, the agency head or, for
 127 agencies under the jurisdiction of the Governor, the Chief
 128 Inspector General, shall initiate a national search for an
 129 inspector general and shall set the salary of the inspector
 130 general. In the event of a vacancy in the position of inspector

131 general, the agency head or, for agencies under the jurisdiction
 132 of the Governor, the Chief Inspector General, may appoint other
 133 office of inspector general management personnel as interim
 134 inspector general until such time as a successor inspector
 135 general is appointed.

136 3. A former or current elected official may not be
 137 appointed inspector general within 5 years after the end of such
 138 individual's period of service. This restriction does not
 139 prohibit the reappointment of a current inspector general.

140 (b) The inspector general shall report to and be under the
 141 general supervision of the agency head and is not subject to
 142 supervision by any other employee of the state agency in which
 143 the office is established. For state agencies under the
 144 jurisdiction of the Governor, the inspector general shall be
 145 under the general supervision of the agency head for
 146 administrative purposes, shall report to the Chief Inspector
 147 General, and may hire and remove staff within the office of the
 148 inspector general in consultation with the Chief Inspector
 149 General but independently of the agency.

150 (c) For state agencies under the jurisdiction of the
 151 Cabinet or the Governor and Cabinet, the inspector general may
 152 be removed from office by the agency head. For state agencies
 153 under the jurisdiction of the Governor, the inspector general
 154 may only be removed from office by the Chief Inspector General
 155 for cause, including concerns regarding performance,
 156 malfeasance, misfeasance, misconduct, or failure to carry out

157 his or her duties under this section. The Chief Inspector
 158 General shall notify the Governor in writing of his or her
 159 intention to remove the inspector general at least 21 days
 160 before the removal. For state agencies under the jurisdiction of
 161 the Governor and Cabinet, the agency head shall notify the
 162 Governor and Cabinet in writing of his or her intention to
 163 remove the inspector general at least 21 days before the
 164 removal. If the inspector general disagrees with the removal,
 165 the inspector general may present objections in writing to the
 166 Governor within the 21-day period.

167 (d) The Governor, the Governor and Cabinet, the agency
 168 head, or agency staff may not prevent or prohibit the inspector
 169 general from initiating, carrying out, or completing any audit
 170 or investigation.

171 (4) (a) To ensure that state agency audits are performed in
 172 accordance with applicable auditing standards, the inspector
 173 general or the director of auditing within the inspector
 174 general's office shall possess the following qualifications:

175 1. ~~(a)~~ A bachelor's degree from an accredited college or
 176 university with a major in accounting, or with a major in
 177 business which includes five courses in accounting, and 5 years
 178 of experience as an internal auditor or independent postauditor,
 179 electronic data processing auditor, accountant, or any
 180 combination thereof. The experience shall at a minimum consist
 181 of audits of units of government or private business
 182 enterprises, operating for profit or not for profit; or

183 ~~2.(b)~~ A master's degree in accounting, business
 184 administration, or public administration from an accredited
 185 college or university and 4 years of experience as required in
 186 subparagraph 1. ~~paragraph (a)~~; or

187 ~~3.(c)~~ A certified public accountant license issued
 188 pursuant to chapter 473 or a certified internal audit
 189 certificate issued by the Institute of Internal Auditors or
 190 earned by examination, and 4 years of experience as required in
 191 subparagraph 1. ~~paragraph (a)~~.

192 (b) For agencies under the jurisdiction of the Governor,
 193 the inspector general shall be selected on the basis of
 194 integrity, leadership capability, and experience in accounting,
 195 auditing, financial analysis, law, management analysis, program
 196 evaluation, public administration, investigation, criminal
 197 justice administration, or other closely related field. The
 198 inspector general is subject to a level 2 background screening
 199 pursuant to chapter 435. The inspector general shall have a 4-
 200 year degree from an accredited institution of higher learning or
 201 have at least 5 years of experience in at least one of the
 202 following areas:

- 203 1. Inspector general.
- 204 2. Supervisory experience in an office of inspector
 205 general or an investigative public agency similar to an office
 206 of inspector general.
- 207 3. Local, state, or federal law enforcement officer.
- 208 4. Local, state, or federal court judge.

209 5. Senior-level auditor or comptroller.
 210 6. The administration and management of complex audits and
 211 investigations.
 212 7. Managing programs for prevention, examination,
 213 detection, elimination of fraud, waste, abuse, mismanagement,
 214 malfeasance, or misconduct in government or other organizations.
 215
 216 An advanced degree in law, accounting, public administration, or
 217 other relevant field may substitute for 1 year of required
 218 experience.
 219 (c) The inspector general shall possess at appointment, or
 220 obtain within the first year after appointment, a certification
 221 from the Association of Inspectors General as a certified
 222 inspector general. The inspector general must have one or more
 223 other professional certifications, such as certified inspector
 224 general investigator, certified inspector general auditor,
 225 certified public accountant, certified internal auditor,
 226 certified governmental financial manager, or certified fraud
 227 examiner, certified financial crimes investigator or other
 228 related certification, or be a licensed attorney.
 229 (d) The inspector general may not hold, or be a candidate
 230 for, an elective office of the state or a municipality, county,
 231 or other political subdivision of the state while inspector
 232 general, and a current officer or employee of an office of
 233 inspector general may not hold, or be a candidate for, an
 234 elective office of the state or a municipality, county, or other

235 political subdivision of the state. The inspector general may
 236 not hold office in a political party or political committee. An
 237 employee of an office of inspector general may not hold office
 238 in a political party or political committee while employed in
 239 the office of inspector general.

240 (5) The inspector general and his or her staff shall have
 241 access to any records, data, and other information of the state
 242 agency that he or she deems necessary to carry out his or her
 243 duties. The inspector general, at all times, shall have access
 244 to a building or facility that is owned, operated, or leased by
 245 a department, agency, board, or commission, or a property held
 246 in trust to the state if the inspector general deems such access
 247 necessary to carry out his or her duties. The inspector general
 248 may also request such information or assistance as may be
 249 necessary from the state agency or from any federal, state, or
 250 local government entity.

251 (6) It is the duty of every state officer, employee,
 252 agency, special district, board, commission, contractor, and
 253 subcontractor to cooperate with the inspector general in any
 254 investigation, audit, inspection, review, or hearing pursuant to
 255 this section. Beginning July 1, 2015, each contract, bid,
 256 proposal, and application or solicitation for a contract shall
 257 contain a statement that the corporation, partnership, or person
 258 understands and will comply with this subsection.

259 (7)~~(5)~~ In carrying out the auditing duties and
 260 responsibilities of this act, each inspector general shall

261 review and evaluate internal controls necessary to ensure the
 262 fiscal accountability of the state agency. The inspector general
 263 shall conduct financial, compliance, electronic data processing,
 264 and performance audits of the agency and prepare audit reports
 265 of his or her findings. The scope and assignment of the audits
 266 shall be determined by the inspector general; however, the
 267 agency head may at any time request the inspector general to
 268 perform an audit of a special program, function, or
 269 organizational unit. The performance of the audit shall be under
 270 the direction of the inspector general, except that if the
 271 inspector general does not possess the qualifications specified
 272 in subsection (4), the director of auditing shall perform the
 273 functions listed in this subsection.

274 (a) Such audits shall be conducted in accordance with the
 275 current International Standards for the Professional Practice of
 276 Internal Auditing as published by the Institute of Internal
 277 Auditors, Inc., or, where appropriate, in accordance with
 278 generally accepted governmental auditing standards. All audit
 279 reports issued by internal audit staff shall include a statement
 280 that the audit was conducted pursuant to the appropriate
 281 standards.

282 (b) Audit workpapers and reports shall be public records
 283 to the extent that they do not include information which has
 284 been made confidential and exempt from the provisions of s.
 285 119.07(1) pursuant to law. However, when the inspector general
 286 or a member of the staff receives from an individual a complaint

287 or information that falls within the definition provided in s.
 288 112.3187(5), the name or identity of the individual may not be
 289 disclosed to anyone else without the written consent of the
 290 individual, unless the inspector general determines that such
 291 disclosure is unavoidable during the course of the audit or
 292 investigation.

293 ~~(c) The inspector general and the staff shall have access~~
 294 ~~to any records, data, and other information of the state agency~~
 295 ~~he or she deems necessary to carry out his or her duties. The~~
 296 ~~inspector general may also request such information or~~
 297 ~~assistance as may be necessary from the state agency or from any~~
 298 ~~federal, state, or local government entity.~~

299 (c)~~(d)~~ At the conclusion of each audit, the inspector
 300 general shall submit preliminary findings and recommendations to
 301 the person responsible for supervision of the program function
 302 or operational unit who shall respond to any adverse findings
 303 within 20 working days after receipt of the preliminary
 304 findings. Such response and the inspector general's rebuttal to
 305 the response shall be included in the final audit report.

306 (d)~~(e)~~ At the conclusion of an audit in which the subject
 307 of the audit is a specific entity contracting with the state or
 308 an individual substantially affected, if the audit is not
 309 confidential or otherwise exempt from disclosure by law, the
 310 inspector general shall, consistent with s. 119.07(1), submit
 311 the findings to the entity contracting with the state or the
 312 individual substantially affected, who shall be advised in

313 writing that they may submit a written response within 20
 314 working days after receipt of the findings. The response and the
 315 inspector general's rebuttal to the response, if any, must be
 316 included in the final audit report.

317 (e)~~(f)~~ The inspector general shall submit the final report
 318 to the agency head, the Auditor General, and, for state agencies
 319 under the jurisdiction of the Governor, the Chief Inspector
 320 General.

321 (f)~~(g)~~ The Auditor General, in connection with the
 322 independent postaudit of the same agency pursuant to s. 11.45,
 323 shall give appropriate consideration to internal audit reports
 324 and the resolution of findings therein. The Legislative Auditing
 325 Committee may inquire into the reasons or justifications for
 326 failure of the agency head to correct the deficiencies reported
 327 in internal audits that are also reported by the Auditor General
 328 and shall take appropriate action.

329 (g)~~(h)~~ The inspector general shall monitor the
 330 implementation of the state agency's response to any report on
 331 the state agency issued by the Auditor General or by the Office
 332 of Program Policy Analysis and Government Accountability. No
 333 later than 6 months after the Auditor General or the Office of
 334 Program Policy Analysis and Government Accountability publishes
 335 a report on the state agency, the inspector general shall
 336 provide a written response to the agency head or, for state
 337 agencies under the jurisdiction of the Governor, the Chief
 338 Inspector General on the status of corrective actions taken. The

339 | inspector general shall file a copy of such response with the
 340 | Legislative Auditing Committee.

341 | (h)~~(i)~~ The inspector general shall develop long-term and
 342 | annual audit plans based on the findings of periodic risk
 343 | assessments. The plan, where appropriate, should include
 344 | postaudit samplings of payments and accounts. The plan shall
 345 | show the individual audits to be conducted during each year and
 346 | related resources to be devoted to the respective audits. The
 347 | Chief Financial Officer, to assist in fulfilling the
 348 | responsibilities for examining, auditing, and settling accounts,
 349 | claims, and demands pursuant to s. 17.03(1), and examining,
 350 | auditing, adjusting, and settling accounts pursuant to s. 17.04,
 351 | may use audits performed by the inspectors general and internal
 352 | auditors. For state agencies under the jurisdiction of the
 353 | Governor, the audit plans shall be submitted to the Chief
 354 | Inspector General. The plan shall be submitted to the agency
 355 | head for approval. A copy of the approved plan shall be
 356 | submitted to the Auditor General.

357 | (8)~~(6)~~ In carrying out the investigative duties and
 358 | responsibilities specified in this section, each inspector
 359 | general shall initiate, conduct, supervise, and coordinate
 360 | investigations designed to detect, deter, prevent, and eradicate
 361 | fraud, waste, mismanagement, misconduct, and other abuses in
 362 | state government. For these purposes, each inspector general
 363 | shall:

364 | (a) Receive complaints and coordinate all activities of

365 the agency as required by the Whistle-blower's Act pursuant to
 366 ss. 112.3187-112.31895.

367 (b) Receive and consider the complaints which do not meet
 368 the criteria for an investigation under the Whistle-blower's Act
 369 and conduct, supervise, or coordinate such inquiries,
 370 investigations, or reviews as the inspector general deems
 371 appropriate.

372 (c) Report expeditiously to the Department of Law
 373 Enforcement or other law enforcement agencies, as appropriate,
 374 whenever the inspector general has reasonable grounds to believe
 375 there has been a violation of criminal law.

376 (d) Conduct investigations and other inquiries free of
 377 actual or perceived impairment to the independence of the
 378 inspector general or the inspector general's office. This shall
 379 include freedom from any interference with investigations and
 380 timely access to records and other sources of information.

381 (e) At the conclusion of each investigation in which the
 382 subject of the investigation is a specific entity contracting
 383 with the state or an individual substantially affected as
 384 defined by this section, and if the investigation is not
 385 confidential or otherwise exempt from disclosure by law, the
 386 inspector general shall, consistent with s. 119.07(1), submit
 387 findings to the subject that is a specific entity contracting
 388 with the state or an individual substantially affected, who
 389 shall be advised in writing that they may submit a written
 390 response within 20 working days after receipt of the findings.

391 Such response and the inspector general's rebuttal to the
 392 response, if any, shall be included in the final investigative
 393 report.

394 (f) Submit in a timely fashion final reports on
 395 investigations conducted by the inspector general to the agency
 396 head, except for whistle-blower's investigations, which shall be
 397 conducted and reported pursuant to s. 112.3189.

398 (9)~~(7)~~(a) Except as provided in paragraph (b), each
 399 inspector general shall, not later than September 30 of each
 400 year, prepare an annual report summarizing the activities of the
 401 office during the immediately preceding state fiscal year.

402 (b) The inspector general of the Florida Housing Finance
 403 Corporation shall, not later than 90 days after the end of each
 404 fiscal year, prepare an annual report summarizing the activities
 405 of the office of inspector general during the immediately
 406 preceding fiscal year.

407 (c) The final reports prepared pursuant to paragraphs (a)
 408 and (b) shall be provided to the heads of the respective
 409 agencies and, for state agencies under the jurisdiction of the
 410 Governor, the Chief Inspector General. Such reports shall
 411 include, but need not be limited to:

412 1. A description of activities relating to the
 413 development, assessment, and validation of performance measures.

414 2. A description of significant abuses and deficiencies
 415 relating to the administration of programs and operations of the
 416 agency disclosed by investigations, audits, reviews, or other

417 activities during the reporting period.

418 3. A description of the recommendations for corrective
 419 action made by the inspector general during the reporting period
 420 with respect to significant problems, abuses, or deficiencies
 421 identified.

422 4. The identification of each significant recommendation
 423 described in previous annual reports on which corrective action
 424 has not been completed.

425 5. A summary of each audit and investigation completed
 426 during the reporting period.

427 (10)~~(8)~~ The inspector general in each state agency shall
 428 provide to the agency head, upon receipt, all written complaints
 429 concerning the duties and responsibilities in this section or
 430 any allegation of misconduct related to the office of the
 431 inspector general or its employees, if received from subjects of
 432 audits or investigations who are individuals substantially
 433 affected or entities contracting with the state, as defined in
 434 this section. For state agencies under the jurisdiction of the
 435 Governor, the inspector general shall also provide the complaint
 436 to the Chief Inspector General.

437 (11)~~(9)~~ Each agency inspector general shall, to the extent
 438 both necessary and practicable, include on his or her staff
 439 individuals with electronic data processing auditing experience.

440 Section 2. Subsection (5) is added to section 14.32,
 441 Florida Statutes, to read:

442 14.32 Office of Chief Inspector General.—

443 (5) In exercising authority under this section, the Chief
 444 Inspector General or his or her designee may:

445 (a) Hire or retain legal counsel.

446 (b) Issue and serve subpoenas and subpoenas duces tecum,
 447 for agencies under the jurisdiction of the Governor, to compel
 448 the attendance of witnesses and the production of documents,
 449 reports, answers, records, accounts, and other data in any
 450 medium.

451 (c) Require or permit a person to file a statement in
 452 writing, under oath or otherwise, as to all the facts and
 453 circumstances concerning the matter to be audited, examined, or
 454 investigated.

455
 456 In the event of noncompliance with a subpoena issued pursuant to
 457 this subsection, the Chief Inspector General may petition the
 458 circuit court of the county in which the person subpoenaed
 459 resides or has his or her principal place of business for an
 460 order requiring the subpoenaed person to appear and testify and
 461 to produce documents, reports, answers, records, accounts, or
 462 other data as specified in the subpoena.

463 Section 3. This act shall take effect July 1, 2015.



Amendment No.1

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: State Affairs Committee
 2 Representative Raulerson offered the following:

Amendment

5 Remove lines 27-67 and insert:

6 executive director of the Office of Early Learning, and the
 7 Chief Justice of the State Supreme Court.

8 (b) "Entities contracting with the state" means for-profit
 9 and not-for-profit organizations or businesses that have a legal
 10 existence, such as corporations or partnerships, as opposed to
 11 natural persons, which have entered into a relationship with a
 12 state agency to provide for consideration certain goods or
 13 services to the state agency or on behalf of the state agency.
 14 The relationship may be evidenced by payment by warrant or
 15 purchasing card, contract, purchase order, provider agreement,
 16 or other such mutually agreed upon relationship. The term does
 17 not apply to entities that are the subject of audits or



Amendment No.1

18 investigations conducted pursuant to ss. 112.3187-112.31895 or
19 s. 409.913 or which are otherwise confidential and exempt under
20 s. 119.07.

21 (c) "Individuals substantially affected" means natural
22 persons who have established a real and sufficiently immediate
23 injury in fact due to the findings, conclusions, or
24 recommendations of a final report of a state agency inspector
25 general, who are the subject of the audit or investigation, and
26 who do not have or are not currently afforded an existing right
27 to an independent review process. The term does not apply to
28 employees of the state, including career service, probationary,
29 other personal service, Selected Exempt Service, and Senior
30 Management Service employees; former employees of the state if
31 the final report of the state agency inspector general relates
32 to matters arising during a former employee's term of state
33 employment; or persons who are the subject of audits or
34 investigations conducted pursuant to ss. 112.3187-112.31895 or
35 s. 409.913 or which are otherwise confidential and exempt under
36 s. 119.07.

37 (d) "State agency" means each department created pursuant
38 to this chapter and the Executive Office of the Governor, the
39 Department of Military Affairs, the Fish and Wildlife
40 Conservation Commission, the Office of Insurance Regulation of
41 the Financial Services Commission, the Office of Financial
42 Regulation of the Financial Services Commission, the Public
43 Service Commission, the Board of Governors of the State



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 371 (2015)

Amendment No.1

44 University System, the Florida Housing Finance Corporation, the
45 Agency for State Technology,



Amendment No. 2

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: State Affairs Committee
 2 Representative Raulerson offered the following:

Amendment (with title amendment)

Remove lines 240-298 and insert:

6 (5) It is the duty of every state officer, employee,
 7 agency, special district, board, commission, contractor, and
 8 subcontractor to cooperate with the inspector general in any
 9 investigation, audit, inspection, review, or hearing pursuant to
 10 this section. Beginning July 1, 2015, each contract, bid,
 11 proposal, and application or solicitation for a contract shall
 12 contain a statement that the corporation, partnership, or person
 13 understands and will comply with this subsection.

14 (6)(5) In carrying out the auditing duties and
 15 responsibilities of this act, each inspector general shall
 16 review and evaluate internal controls necessary to ensure the
 17 fiscal accountability of the state agency. The inspector general



Amendment No. 2

18 shall conduct financial, compliance, electronic data processing,
19 and performance audits of the agency and prepare audit reports
20 of his or her findings. The scope and assignment of the audits
21 shall be determined by the inspector general; however, the
22 agency head may at any time request the inspector general to
23 perform an audit of a special program, function, or
24 organizational unit. The performance of the audit shall be under
25 the direction of the inspector general, except that if the
26 inspector general does not possess the qualifications specified
27 in subsection (4), the director of auditing shall perform the
28 functions listed in this subsection.

29 (a) Such audits shall be conducted in accordance with the
30 current International Standards for the Professional Practice of
31 Internal Auditing as published by the Institute of Internal
32 Auditors, Inc., or, where appropriate, in accordance with
33 generally accepted governmental auditing standards. All audit
34 reports issued by internal audit staff shall include a statement
35 that the audit was conducted pursuant to the appropriate
36 standards.

37 (b) Audit workpapers and reports shall be public records
38 to the extent that they do not include information which has
39 been made confidential and exempt from the provisions of s.
40 119.07(1) pursuant to law. However, when the inspector general
41 or a member of the staff receives from an individual a complaint
42 or information that falls within the definition provided in s.
43 112.3187(5), the name or identity of the individual may not be



Amendment No. 2

44 disclosed to anyone else without the written consent of the
45 individual, unless the inspector general determines that such
46 disclosure is unavoidable during the course of the audit or
47 investigation.

48 (c) The inspector general and the staff shall have access
49 to any records, data, and other information of the state agency
50 he or she deems necessary to carry out his or her duties. The
51 inspector general may also request such information or
52 assistance as may be necessary from the state agency or from any
53 federal, state, or local government entity.

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

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Remove lines 6-8 and insert:

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general and staff; establishing the duty of specified persons

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and entities with respect to cooperation with an inspector

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general's official duties; requiring contracts and other

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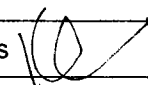
specified documents to contain a statement regarding compliance

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with an inspector general's official duties;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1083 Employment Opportunities for Persons with Disabilities
SPONSOR(S): Government Operations Subcommittee; Rooney, Jr. and others
TIED BILLS: IDEN./SIM. BILLS: CS/SB 848

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	11 Y, 0 N, As CS	Toliver	Williamson
2) Government Operations Appropriations Subcommittee	12 Y, 0 N	White	Topp
3) State Affairs Committee		Toliver <i>LT</i>	Camechis 

SUMMARY ANALYSIS

In 2013, Governor Scott issued Executive Order Number 13-284 to require certain agencies and organizations to develop and implement an interagency cooperative agreement to improve the employment outcomes for disabled persons. The agreement became effective on July 1, 2014.

The bill provides definitions and legislative findings regarding employment opportunities for persons with disabilities.

The bill requires certain agencies and organizations to develop and implement an interagency cooperative agreement (agreement) to provide the framework for a long-term commitment to improving employment outcomes for persons with disabilities. It requires the agreement to:

- Establish a commitment among the leadership of each agency and organization to maximize resources and to coordinate with other agencies and organizations to improve employment outcomes for persons with disabilities;
- Develop strategic goals and benchmarks to assist each agency and organization in implementing the agreement;
- Identify financing and contracting methods that will prioritize employment for persons with disabilities;
- Identify how training opportunities may be better utilized by employees of each agency and organization to ensure effectiveness of supported employment services;
- Ensure collaboration between each agency and organization during the development of supported employment services when persons with disabilities are served by multiple agencies and organizations to achieve their employment goals;
- Promote the innovation of supported employment services; and
- Identify accountability measures to ensure sustainability of agreement initiatives.

The bill has a minimal negative fiscal impact on state government that is anticipated to be absorbed within existing resources. The bill does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) was passed by congress and signed by President George H. W. Bush in 1990.¹ Its purpose is to provide "a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities."² The ADA specifically prohibits discrimination against disabled individuals with regard to employment:³

No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

Florida Statutes

The Legislature enacted the Florida Civil Rights Act of 1992,⁴ which prohibits discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status.⁵ Section 760.10(1)(a), F.S., provides that it is unlawful to discharge or to fail to refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions or privileges of employment, because of such individual's handicap.

Furthermore, it is the state's policy that:⁶

[A]n individual with a disability be employed in the service of the state or political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds, and an employer may not refuse employment to such a person on the basis of the disability along, unless it is shown that the particular disability prevents the satisfactory performance of the work involved.

Gubernatorial Executive Orders

In 1993, Governor Chiles issued Executive Order Number 93-166 which created the Florida Coordinating Council (coordinating council) for the ADA. The purpose of the coordinating council was to aid in the elimination of discrimination against disabled individuals in the areas of employment, transportation, telecommunications, state and local services, and public accommodations.⁷

In 1997, Governor Chiles issued Executive Order Number 97-56 in an effort to refocus Florida's efforts in implementing the ADA. The executive order disbanded the coordinating council and created the Americans with Disabilities Act Working Group (working group).⁸ The working group was created to foster a cooperative effort between state and local governments, the education

¹ Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 327.

² 42 U.S.C. s. 12101(b)(1) (2015).

³ 42 U.S.C. s. 12112(a) (2015).

⁴ Sections 760.01-760.11, F.S.

⁵ Section 760.01(2), F.S.

⁶ Section 413.08(5), F.S.

⁷ Fla. Exec. Order No. 93-166 (1993).

⁸ Fla. Exec. Order No. 97-56 (1997).

community, the business community, the private sector, and the disability community.⁹ In 1999, Governor Bush issued Executive Order Number 99-80 to expand the responsibilities of the working group to “provide information, referrals, education, and recommendations for compliance and implementation of the [ADA] in order to increase the independence and quality of life for citizens of Florida with disabilities.”¹⁰

In 2007, Governor Crist extended the duration of the working group¹¹ before dissolving the group and creating the Governor’s Commission on Disabilities.¹² The commission was responsible for identifying and recommending methods to maximize the freedom and independence of Floridians with disabilities, with a focus on employment, transportation, education, and independent living.¹³

In 2011, Governor Scott created the Governor’s Commission on Jobs for Floridians with Disabilities (commission).¹⁴ The vision of the commission is to “advance job and employment opportunities for Floridians with disabilities in order to help those Floridians achieve greater independence.”¹⁵ The commission, which consists of 13 members appointed by the Governor,¹⁶ has three responsibilities:¹⁷

- Identify and recommend strategies to cultivate job opportunities for persons with disabilities in the State of Florida;
- Identify barriers in state and local programs that hinder individuals with disabilities from gaining employment and proposing solutions to mitigate those barriers; and
- Develop and leverage state and community resources to advance service delivery.

Each year, on or before July 26, the commission must provide a report to the Governor outlining its accomplishments during the previous 12 months.¹⁸

In 2013, Governor Scott issued Executive Order Number 13-284, which ordered that an interagency cooperative agreement (agreement) be created “among state agencies and other disabilities service organizations to ensure the continuation of this long-term commitment to improving employment outcomes for this population.” It required certain agencies¹⁹ to develop and implement the agreement with the following objectives:²⁰

- Establish a commitment among the agencies’ leadership to maximize resources and coordinate with each other to improve employment outcomes for persons with disabilities seeking publicly funded services;

⁹ *Id.*

¹⁰ Fla. Exec. Order No. 99-80 s. 1 (1999).

¹¹ Fla. Exec. Order No. 07-04 (2007).

¹² Fla. Exec. Order No. 07-148 (2007).

¹³ *Id.* at s. 2.

¹⁴ Fla. Exec. Order No. 11-161 (2011); Governor’s Commission on Jobs for Floridians with Disabilities, <http://www.flgov.com/gcjfd/> (last visited 3/17/15).

¹⁵ Fla. Exec. Order No 11-161, s. 1 (2011).

¹⁶ *Id.* at s. 4. The commission membership is as follows: two Florida citizens representing persons with physical or developmental disabilities; four individuals representing the business community who have personal experience in creating private-sector jobs; two individuals representing the state community college system who have experience in education-to-employment transition programs; one individual who has a background in employment recruiting or experience in job training for persons with disabilities; one representative from the Able Trust; one representative from the Division of Vocation Rehabilitation, Department of Education; one representative from the Agency for Persons with Disabilities; and one representative from the Agency for Workforce Development.

¹⁷ *Id.* at s. 2.

¹⁸ *Id.* at s. 3.

¹⁹ The following agencies were tasked with developing the agreement: Division of Vocational Rehabilitation, Department of Education; Division of Blind Services, Department of Education; Bureau of Exception Education and Student Services, Department of Education; Agency for Persons with Disabilities; Mental Health and Substance Abuse Program, Department of Children and Families; Workforce Florida, Inc.; Florida Developmental Disabilities Council; and other state agencies and disability organizations that wish to participate. Fla. Exec. Order No. 13-284 at s. 4.

²⁰ *Id.* at s. 3.

- Develop strategic goals and reasonable benchmarks to assist the agencies in implementing the agreement;
- Identify financing and contracting methods that will prioritize employment among the array of services paid for or provided by agencies;
- Identify ways training opportunities can be better utilized by agency employees and contracted providers to ensure effectiveness of employment services;
- Ensure collaboration occurs during the development of service plans, including the Individual Plan for Employment, when individuals are served by multiple agencies to achieve their employment goals;
- Promote service innovation; and
- Identify accountability measures to ensure sustainability.

The agreement was executed and became effective on July 1, 2014.²¹ The agreement incorporates the objectives from the executive order and establishes an organizational structure.²² The agreement establishes three entities to carry out its required responsibilities: the Employment Partnership Coalition,²³ the State Level Employment First Collaborative Team,²⁴ and the Grassroots Level Group.²⁵ The agreement further provides that it will automatically terminate on June 30, 2019, unless it is renewed.²⁶

Effect of the Bill

The bill provides legislative findings regarding employment opportunities for persons with disabilities.

The bill requires the following agencies and organizations to develop and implement an interagency cooperative agreement (agreement) to provide the framework for a long-term commitment to improving employment outcomes for persons with disabilities:

- The Division of Vocational Rehabilitation, Department of Education;
- The Division of Blind Services, Department of Education;
- The Bureau of Exceptional Education and Student Services, Department of Education;
- The Substance Abuse and Mental Health Program, Department of Children and Families;
- The Agency for Persons with Disabilities;
- The Department of Economic Opportunity;
- Workforce Florida, Inc.;
- The Florida Developmental Disabilities Council; and
- The Florida Association of Rehabilitation Facilities, Inc.

The agreement must:

- Establish a commitment among the leadership of each agency and organization to maximize resources and to coordinate with other agencies and organizations to improve employment outcomes for persons with disabilities;
- Develop strategic goals and benchmarks to assist each agency and organization in implementing the agreement;

²¹ Interagency Cooperative Agreement: Employment First Initiative, s. VI, FLDOE Contract No. IA-556.

²² *Id.* at s. IV.

²³ The coalition is composed of the leaders of each agency or organization that is a participant in the agreement and charged with overall coordination and implementation of activities required by the agreement, as well as to ensure continuous improvement.

²⁴ The team is composed of staff assigned by the participating entities and meet on a monthly basis. The team is responsible for identifying the barriers within extant systems and practices and creating potential solutions for those barriers. The team will present recommendations based upon their findings to the coalition.

²⁵ The group is “composed of self-advocates and local stakeholders representing a cross-section of persons with various disabilities.” The group meets quarterly to share information and “ensure the voice of the stakeholders is heard.”

²⁶ FLDOE Contract No. IA-556 at s. VI.

- Identify financing and contracting methods that will prioritize employment for persons with disabilities;
- Identify how training opportunities may be better utilized by employees of each agency and organization to ensure effectiveness of supported employment services;²⁷
- Ensure collaboration between each agency and organization during the development of supported employment services when persons with disabilities are served by multiple agencies and organizations to achieve their employment goals;
- Promote the innovation of supported employment services; and
- Identify accountability measures to ensure sustainability of agreement initiatives.

The bill defines the term “employment” to mean a person with disabilities performing an activity or service in return for a minimum wage or greater paid by an employer, is fully integrated in the community workforce, and is working towards maximum self-sufficiency. It provides that the term includes integrated employment designed to provide jobs for persons with disabilities in workplace settings where the majority of persons employed are not persons with disabilities, supported employment, customized employment designed to personalize the employment relationship between a person with disabilities and his or her employer in a way that meets both their needs, and suitable gainful employment.²⁸

The bill also defines the term “employment outcome” as having the same meaning as in s. 413.20(9), F.S. Section 413.20(9), F.S., defines the term “employment outcome” to mean “with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market to the greatest extent practicable, supported employment, or any other type of employment, including self-employment, telework, or business ownership, that is consistent with an individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.”

B. SECTION DIRECTORY:

Section 1: Creates s. 445.08, F.S. regarding employment opportunities for persons with disabilities.

Section 2: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

²⁷ Section 413.20(23), F.S. defines the term “supported employment services” to mean on-going support services and other appropriate services needed to support and maintain a person who has a most significant disability in supported employment. It provides that supported employment services are based upon a determination of the needs of the eligible individual as specified in the person’s individualized plan for employment. The services are provided singly or in combination and are organized and made available in such a way as to assist eligible individuals in entering or maintaining integrated, competitive employment. The services are provided for a period not to extend beyond 18 months, but can be extended under special circumstances with the consent of the individual in order to achieve the objectives of the rehabilitation plan.

²⁸ Section 440.491(1)(g), F.S. defines the term “suitable gainful employment” to mean employment or self-employment that is reasonably attainable in light of the employee’s age, education, work history, transferable skills, previous occupation, and injury, and which offers an opportunity to restore the individual as soon as practicable and as nearly as possible to his or her average weekly earnings at the time of injury.

2. Expenditures:

The bill does not appear to impact state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill has a minimal negative fiscal impact on the state agencies required to work on the interagency agreement. These agencies will have to provide staff to work on the interagency agreement, so there is an increased workload; however, it is anticipated that the increased workload can be absorbed within existing resources.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill appears to codify several provisions in Executive Order Number 13-284.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 24, 2015, the Government Operations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The first amendment removes the Department of Children and Families from the list of participants due to redundancy and adds the Agency for Persons with Disabilities in its place. The second amendment removes the rulemaking authority provided in the bill.

This analysis is drafted to the committee substitute as passed by the Government Operations Subcommittee.

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A bill to be entitled
 An act relating to employment opportunities for
 persons with disabilities; creating s. 445.08, F.S.;
 providing legislative findings and purpose; providing
 definitions; requiring specified state agencies and
 organizations to develop and implement an interagency
 cooperative agreement for certain purposes; providing
 requirements; providing an effective date.

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

Section 1. Section 445.08, Florida Statutes, is created to
 read:

445.08 Employment opportunities for persons with
 disabilities; interagency cooperative agreements.-

(1) The Legislature finds that persons with disabilities
 are confronted by unique employment barriers that inhibit their
 opportunities in the labor force and that employment of such
 persons is the most direct and cost-effective means to help them
 achieve independence and self-fulfillment. Therefore, the
 Legislature finds that employment for persons with disabilities
 should be prioritized and a means to support such employment
 should be encouraged. The purpose of this section is to require
 a collaborative effort by state agencies and organizations to
 determine the barriers to achieving better employment outcomes
 for persons with disabilities and to act collaboratively to

27 | eliminate such barriers.

28 | (2) For purposes of this section, the term:

29 | (a) "Employment" means a person with disabilities is
 30 | performing an activity or service in return for minimum wage or
 31 | greater paid by an employer, is fully integrated in the
 32 | community workforce, and is working towards maximum self-
 33 | sufficiency. The term includes integrated employment designed to
 34 | provide jobs for a persons with disabilities in workplace
 35 | settings where the majority of persons employed are not persons
 36 | with disabilities, supported employment as defined in s.
 37 | 393.063(38), customized employment designed to personalize the
 38 | employment relationship between a person with disabilities and
 39 | his or her employer in a way that meets both of their needs, and
 40 | suitable gainful employment as defined in s. 440.491(1)(g).

41 | (b) "Employment outcome" has the same meaning as in s.
 42 | 413.20(9).

43 | (3)(a) The following state agencies and organizations
 44 | shall develop and implement an interagency cooperative agreement
 45 | to provide the framework, including their roles and
 46 | responsibilities, for a long-term commitment to improving
 47 | employment outcomes for persons with disabilities in this state:

48 | 1. The Division of Vocational Rehabilitation of the
 49 | Department of Education.

50 | 2. The Division of Blind Services of the Department of
 51 | Education.

52 | 3. The Bureau of Exceptional Education and Student

- 53 Services of the Department of Education.
- 54 4. The Substance Abuse and Mental Health Program of the
- 55 Department of Children and Families.
- 56 5. The Agency for Persons with Disabilities.
- 57 6. The Department of Economic Opportunity.
- 58 7. Workforce Florida, Inc.
- 59 8. The Florida Developmental Disabilities Council.
- 60 9. The Florida Association of Rehabilitation Facilities,
- 61 Inc.
- 62 (b) The interagency cooperative agreement shall:
- 63 1. Establish a commitment among the leadership of each
- 64 agency and organization to maximize resources and to coordinate
- 65 with other agencies and organizations to improve employment
- 66 outcomes for persons with disabilities.
- 67 2. Develop strategic goals and benchmarks to assist each
- 68 agency and organization in implementing the agreement.
- 69 3. Identify financing and contracting methods that will
- 70 prioritize employment for persons with disabilities.
- 71 4. Identify how training opportunities may be better
- 72 utilized by employees of each agency and organization to ensure
- 73 effectiveness of supported employment services as defined in s.
- 74 413.20(23).
- 75 5. Ensure collaboration between each agency and
- 76 organization during the development of supported employment
- 77 services when persons with disabilities are served by multiple
- 78 agencies and organizations to achieve their employment goals.

CS/HB 1083

2015

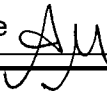
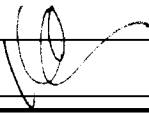
79 6. Promote the innovation of supported employment
80 services.

81 7. Identify accountability measures to ensure
82 sustainability of agreement initiatives.

83 Section 2. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1285 Nuclear Arms in Iran
SPONSOR(S): Rader, Fresen, and others
TIED BILLS: IDEN./SIM. **BILLS:** SM 1422

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	14 Y, 0 N	Thompson	Kiner
2) State Affairs Committee		Moore 	Camechis 

SUMMARY ANALYSIS

Iran has been designated a state sponsor of terrorism and is subject to domestic and international sanctions due to its continued involvement in terrorism and possible militarization of its nuclear program. As a result, Iranian procurements for its nuclear program violate national trade control laws of supplier states and United Nations (U.N.) Security Council sanctions on a wide range of goods.

In November 2013, the five permanent members of the U.N. Security Council, plus Germany, known as the "P5+1," signed a Joint Plan of Action (JPA) with Iran to provide relief from international pressure for positive steps toward transparency of Iran's nuclear program. Negotiations on a deal under the JPA began in February 2014; however, an agreement could not be reached by the July 20, 2014 deadline. In July, the negotiations were extended until November 24, 2014. On November 24, negotiations were extended again, until June 30, 2015. On April 2, 2015, the P5+1 announced that an agreement to limit Tehran's nuclear program for the next 15 years had been reached, but the agreement remains to be finalized.

Generally, proponents of a JPA agreement argue that such an agreement would produce greater U.S./Iran cooperation against the threat to the region posed by the Islamic State organization's seizure of territory in Iraq and Syria. However, opponents argue that such an agreement would assist Iran in developing a nuclear weapon in a short period of time, and thus give Iran additional resources to extend its influence in the region.

HM 1285 urges the President and Congress to pass and enforce new economic sanctions against Iran if that nation is found to be in violation of the JPA or fails to reach an acceptable agreement by the date set forth in the November 2014 extension of the JPA, which is June 30, 2015.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the United States Congress to act on a particular subject. This memorial does not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Iran

Iran has been designated a state sponsor of terrorism for its activities in Lebanon and elsewhere in the world and is subject to United States (U.S.), United Nations (U.N.), and European Union (E.U.) economic sanctions and export controls due to its continued involvement in terrorism and concerns over possible militarization of its nuclear program.¹

In addition, the U.N. Security Council has passed a number of resolutions calling for Iran to suspend its uranium enrichment and reprocessing activities and comply with International Atomic Energy Agency (IAEA)² obligations. In November 2013, the five permanent members of the U.N. Security Council, plus Germany, known as the “P5+1,” signed a joint plan (“Joint Plan of Action” or “JPA”)³ with Iran to provide incremental relief from international pressure for positive steps toward transparency of their nuclear program.⁴

Iranian Nuclear Program

Iran has nuclear programs that could potentially provide Tehran with the capability to produce both weapons-grade highly enriched uranium (HEU) and plutonium—the two types of fissile material used in nuclear weapons. Statements from the U.S. intelligence community indicate that Iran has the technological and industrial capacity to produce nuclear weapons at some point, but the U.S. government assesses that Tehran has not mastered all of the necessary technologies for building a nuclear weapon.⁵

Russian Influence

Iran operates a Russian-built nuclear power reactor. Russia will provide fuel for this reactor until 2021. Iran says it is building fuel-making enrichment facilities for a future expanded nuclear reactor fleet. Iran also has three uranium mining and milling sites. The enrichment program and the heavy water reactor could potentially provide for nuclear weapons material production.⁶

Enrichment Facilities

Iran has three gas centrifuge enrichment facilities: the Natanz Fuel Enrichment Plant (FEP), Natanz Pilot Fuel Enrichment Plant (PFEP), and Fordow Fuel Enrichment Plant (FFEP). Gas centrifuges enrich uranium by spinning uranium hexafluoride gas at high speeds to increase the concentration of the uranium-235 isotope. Such centrifuges can produce weapons-grade HEU. At the time the JPA was concluded, Iran had enough uranium hexafluoride containing up to five percent uranium-235,

¹ Central Intelligence Agency, The World Factbook: Iran, available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/ir.html> (last visited March 17, 2015).

² The International Atomic Energy Agency website is available at: <https://www.iaea.org/> (last visited March 17, 2015).

³ The European Union External Action Service website provides a copy of the November 24, 2013, Joint Plan of Action, available at: http://eeas.europa.eu/statements/docs/2013/131124_03_en.pdf (last visited March 17, 2015).

⁴ Central Intelligence Agency, The World Factbook: Iran, available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/ir.html> (last visited March 17, 2015).

⁵ Congressional Research Service (CRS) Report R43333, Iran: Interim Nuclear Agreement and Talks on a Comprehensive Accord, available at: <https://fas.org/sgp/crs/nuke/R43333.pdf> (last visited March 17, 2015).

⁶ Id.

which, if further enriched, would yield enough weapons-grade HEU for several nuclear weapons. Tehran argues that it is enriching uranium for use as fuel in nuclear power reactors and nuclear research reactors.⁷

Joint Plan of Action

On November 24, 2013, Iran and the P5+1 finalized the JPA, requiring Iran to freeze many aspects of its nuclear program in exchange for relief from some international sanctions. This interim agreement was intended to last six months, during which time Iran and the P5+1 would attempt to reach a comprehensive agreement on the long-term status of Iran's nuclear program.⁸

JPA Requirements

The main elements of the JPA are the requirements that Iran:

- Freeze production of the form of enriched uranium in the country's stockpile that has caused the most concern;
- Dilute and convert the enriched uranium stocks to other forms that would take time to reverse;
- Halt key elements of its heavy-water reactor program that could lead to a plutonium bomb; and
- Provide the IAEA with additional information about its nuclear program, and access to some nuclear-related facilities which are not covered by Iran's IAEA safeguards agreement.⁹

JPA Extensions

Negotiations between the P5+1 and Iran began in February 2014 and reportedly made steady progress, but were insufficient to reach an agreement by the July 20 expiration of the first six-month JPA period. In July 2014, the two sides extended the JPA until November 24, 2014.¹⁰ On November 24, Iran and the P5+1 announced that they were extending the talks, including all provisions of the JPA, with the intent of finalizing a detailed agreement by June 30, 2015.¹¹

After two years of negotiation talks,¹² the P5+1 announced on April 2, 2015, that a preliminary agreement to limit Tehran's nuclear program for the next 15 years had been reached.¹³ The agreement requires Iran to reduce the number of operating centrifuges it has by two-thirds and to reduce its current stockpile of LEU from around 10,000 kilograms to 300 for 15 years.¹⁴ However, many important issues, including when sanctions on Iran would be lifted, have not been resolved and may present obstacles to a final agreement before June 30, 2015.¹⁵

⁷ Id.

⁸ Id.

⁹ Iran is a party to the nuclear Nonproliferation Treaty (NPT) and has concluded a comprehensive safeguards agreement with the IAEA. Such agreements are designed to enable the IAEA to detect the diversion of nuclear material from peaceful purposes to nuclear weapons uses, as well as to detect undeclared nuclear activities and material. For more information, see CRS Report R40094, Iran's Nuclear Program: Tehran's Compliance with International Obligations, by Paul K. Kerr.

¹⁰ Congressional Research Service (CRS) Report R43333, Iran: Interim Nuclear Agreement and Talks on a Comprehensive Accord, available at: <https://fas.org/sgp/crs/nuke/R43333.pdf> (last visited March 17, 2015).

¹¹ U.S. Department of the Treasury Resource Center, Extension of the Implementation of the Joint Plan of Action Reached On November 24, 2013 Between The P5+1 and The Islamic Republic of Iran, available at: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20141125.aspx> (last visited March 17, 2015).

¹² A Timeline of Nuclear Diplomacy with Iran is available at: <http://www.armscontrol.org/factsheet/Timeline-of-Nuclear-Diplomacy-With-Iran> (last visited March 29, 2015).

¹³ N.Y. Times, Iran Agrees to Detailed Nuclear Outline, First Step Toward a Wider Deal, available at: <http://www.nytimes.com/2015/04/03/world/middleeast/iran-nuclear-talks.html> (last visited April 3, 2015).

¹⁴ Id.

¹⁵ Id.

Breakout to Nuclear Weapons

According to the Institute for Science and International Security, despite the fact that Iran no longer has a stock of low enriched uranium (LEU) in hexafluoride form, it retains a significant portion of this material in the form of oxide. Under the July 2014 extension of the Joint Plan of Action, Iran pledged to convert 25 kilograms of LEU oxide into fuel assemblies for the Tehran Research Reactor. The goal of this step was to reduce the ease of using this material in a breakout to nuclear weapons.¹⁶

However, only about five to ten kilograms of LEU oxide actually ended up in the fuel assemblies. In the most recent extension, Iran committed to use another 35 kilograms for fuel assemblies. Although the efficiency rates are expected to be higher this time, Iran will still retain large amounts of near 20 percent LEU in both oxide powder and in scrap, in-process material and in waste. Far more LEU, almost triple the amount, is ending up in scrap and waste than in fuel assemblies. The bulk of this LEU is recoverable and usable in fuel or in a breakout to nuclear weapons.¹⁷

Regional Impacts

Additionally, there are concerns in the U.S. that a JPA agreement would not ensure that Iran could not utilize its nuclear infrastructure to develop a nuclear weapon in a short period of time. Furthermore, some countries in the region, including the Persian Gulf monarchies, express concern that a final accord would prompt a broader U.S./Iran reconciliation that could cause the U.S. to retreat from the Middle East. Others assert that a final accord would give Iran additional resources to extend its influence in the region. However, there also are hopes that an accord could produce greater U.S./Iran cooperation against the threat to the region posed by the Islamic State organization's seizure of territory in Iraq and Syria.¹⁸

Sanction Violations

Countries which are determined by the U.S. Secretary of State to have repeatedly provided support for acts of international terrorism are designated as "state sponsors of terrorism" and are subject to sanctions under the Export Administration Act, the Arms Export Control Act, and the Foreign Assistance Act.¹⁹ The four main categories of sanctions resulting from designations under these acts are:

- Restrictions on U.S. foreign assistance;
- A ban on defense exports and sales;
- Certain controls over exports of dual use items; and
- Miscellaneous financial and other restrictions.

The four countries currently designated by the U.S. Secretary of State as state sponsors of terrorism are Cuba, Iran, Sudan, and Syria.²⁰ Iranian procurements for its sensitive nuclear and ballistic missile

¹⁶ The Institute for Science and International Security (ISIS) is a non-profit, non-partisan institution dedicated to informing the public about science and policy issues affecting international security. Its primary focus is on stopping the spread of nuclear weapons and related technology to additional nations and to terrorists, bringing about greater transparency of nuclear activities worldwide, strengthening the international non-proliferation regime, and achieving deep cuts in nuclear arsenals. This information is available at: <http://isis-online.org/isis-reports/detail/irans-stock-of-near-20-percent-leu-under-the-extension-of-the-joint-plan-of/> (last visited March 30, 2015).

¹⁷ Id.

¹⁸ Congressional Research Service (CRS) Report R43333, Iran: Interim Nuclear Agreement and Talks on a Comprehensive Accord, available at: <https://fas.org/sgp/crs/nuke/R43333.pdf> (last visited March 17, 2015).

¹⁹ U.S. Department of State, Diplomacy in Action can be found online at: <http://www.state.gov/j/ct/list/c14151.htm> (last visited March 17, 2015).

²⁰ Id.

programs violate national trade control laws of supplier states and U.N. Security Council sanctions on a wide range of goods.²¹

In 2014, Iranian President Hassan Rouhani, speaking at a news conference on state television, admitted, “[O]f course we bypass sanctions. We are proud that we bypass sanctions because the sanctions are illegal.”²² Without admitting to violating sanctions, Iranian Atomic Energy Organization (AEOI) head Ali Akbar Salehi also acknowledged that Iran has indeed purchased nuclear or nuclear-related components from other countries.²³

The JPA provides for what the White House Office of the Press Secretary terms “limited, temporary, targeted, and reversible” sanctions relief for Iran.²⁴ Almost all U.S. sanctions laws provide the President with waiver authority, as well as the power to determine sanctions violations.²⁵

Israel

Currently, Israel is not a party to the negotiations. Israeli Prime Minister Benjamin Netanyahu has emphasized that a deal with Iran must “make sure that Iran doesn’t get a path to the bomb and that Iran’s aggression in Yemen and elsewhere, including around Israel’s borders, is stopped.”²⁶ In response to the preliminary plan announced on April 2, 2015, the Prime Minister released a statement saying, “A deal based on this framework would threaten the survival of Israel.”²⁷

Proposed Changes

HM 1285 urges the President and Congress to pass and enforce new economic sanctions against Iran if that nation is found to be in violation of the JPA or fails to reach an acceptable agreement by the date set forth in the November 2014 extension of the JPA, which is June 30, 2015.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

²¹ The Institute for Science and International Security (ISIS) website, available at: <http://isis-online.org/about/> (last visited March 17, 2015).

²² “Iran President Rouhani Hits Out at U.S. Sanctions,” BBC News, August 30, 2014. <http://www.bbc.com/news/world-middle-east-28997452> (last visited March 17, 2015).

²³ The Institute for Science and International Security (ISIS) website, available at: <http://isis-online.org/about/> (last visited March 17, 2015).

²⁴ White House Office of the Press Secretary. “Fact Sheet: First Step Understandings Regarding the Islamic Republic of Iran’s Nuclear Program.” November 23, 2013.

²⁵ For information on the use of waivers and other authorities to implement the sanctions relief of the JPA, see CRS Report R43311, Iran: U.S. Economic Sanctions and the Authority to Lift Restrictions, by Dianne E. Rennack, and CRS Report RS20871, Iran Sanctions, by Kenneth Katzman.

²⁶ Israel Ministry of Foreign Affairs, Press Room, PM Netanyahu meets with delegation of US senators, available at: <http://mfa.gov.il/MFA/PressRoom/2015/Pages/PM-Netanyahu-meets-with-delegation-of-US-senators-29-March-2015.aspx> (last visited March 29, 2015).

²⁷ N.Y. Times, Iran Agrees to Detailed Nuclear Outline, First Step Toward a Wider Deal, available at: <http://www.nytimes.com/2015/04/03/world/middleeast/iran-nuclear-talks.html> (last visited April 3, 2015).

- 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:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision:
Not applicable.
- 2. Other:
None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

House Memorial

A memorial to the Congress of the United States and the President of the United States, urging them to pass and enforce new economic sanctions against Iran if that nation be found in violation of the Joint Plan of Action or fail to reach an acceptable agreement by the dates set forth in the November 2014 extension of the Joint Plan of Action.

WHEREAS, Iran has installed 19,000 centrifuges, and WHEREAS, Iran continues to research and develop advanced centrifuges and has not cooperated with the International Atomic Energy Agency's investigation into the possible military dimensions of its nuclear program, and

WHEREAS, a nuclear-armed Iran poses a significant threat to the United States and international security, and

WHEREAS, the P5+1 has agreed to two extensions of the Joint Plan of Action and Iran has not publicly agreed to any significant concessions, and

WHEREAS, the United States must make clear that new economic sanctions will be enacted if Iran does not timely enter into a nuclear agreement, NOW, THEREFORE,

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

That the Congress of the United States and the President of

27 | the United States are urged to pass and enforce new economic
28 | sanctions against Iran if that nation be found in violation of
29 | the Joint Plan of Action or fail to reach an acceptable
30 | agreement by the dates set forth in the November 2014 extension
31 | of the Joint Plan of Action.

32 | BE IT FURTHER RESOLVED that copies of this memorial be
33 | dispatched to the President of the United States, the President
34 | of the United States Senate, the Speaker of the United States
35 | House of Representatives, and each member of the Florida
36 | delegation to the United States Congress.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1309 Publicly Funded Retirement Plans
SPONSOR(S): Government Operations Subcommittee; Drake
TIED BILLS: IDEN./SIM. BILLS: CS/SB 242

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	7 Y, 3 N, As CS	Harrington	Williamson
2) Appropriations Committee	16 Y, 9 N	Delaney	Leznoff
3) State Affairs Committee		Harrington	Camechis

SUMMARY ANALYSIS

The Florida Protection of Public Employee Retirement Benefits Act requires the plan administrators for all publicly-funded pension plans to submit actuarial reports at least every three years. In addition to the triennial actuarial reporting requirements, local firefighter and police officer pension plans have actuarial reporting requirements in chapters 175 and 185, F.S. The board of trustees for a local government pension plan is permitted to choose the mortality table used in the actuarial valuation report for determining the actuarially required contributions for the plan. As of September 30, 2014, there are 491 defined benefit plans sponsored by 249 local governments.

The bill requires local government pension plans, when conducting the actuarial valuation of the plans, to use the mortality tables used in either of the two most recently published actuarial valuation reports of the Florida Retirement System, including the projection scale for mortality improvement. It requires appropriate risk and collar adjustments to be made based on plan demographics. The bill requires the tables to be used for assumptions for preretirement and postretirement mortality. The bill also revises the mortality tables used in the actuarial disclosures in financial statements submitted to the Department of Management Services.

The bill may have an indeterminate negative fiscal impact on certain local governments. See Fiscal Comments.

The bill has an effective date of July 1, 2015.

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 Department of Management Services (department), Division of Retirement (division).

A unit of local government may not agree to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change upon the local retirement system and furnished a copy of such statement to the division.² In addition, the statement is required to indicate whether the proposed changes are in compliance with s. 14, Art. X of the State Constitution and with s. 112.64, F.S., which relates to administration of funds and amortization of unfunded liability.

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

The Marvin B. Clayton Firefighters' and Police Officers' Pension Trust Fund Acts³ 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.⁴

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. In 1993, special fire control districts became eligible to participate under chapter 175, F.S.

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.

¹ Section 112.62, F.S.

² See s. 112.63, F.S.

³ See chapters 175 and 185, F.S.

⁴ See ss. 175.021(1) and 185.01(1), F.S.

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 to fund the normal cost and any unfunded actuarial liabilities of the plan.

The Firefighters' Pension Trust Fund is funded through an excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or district.⁵ The Police Officers' Retirement Trust Fund is funded through an excise tax of 0.85 percent imposed on the gross premiums of casualty insurance policies covering property within the boundaries of the municipality.⁶ The excise tax is payable by the insurers to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the division.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, the sponsoring municipality may be denied its insurance premium tax revenues until it comes into compliance.

Reporting Requirements for Publicly-Funded Retirement Plans

Triennial Report

To help ensure that each retirement system or plan maintains funding of retirement systems at an appropriate level, governmental entities are required to submit regularly scheduled actuarial reports to the division for its review and approval.⁸

Section 112.63, F.S., requires the plan administrators for all publicly-funded pension plans to submit an actuarial report at least every three years and requires the actuarial reports to consist of, but not be limited to, the following information:

- Adequacy of employer and employee contribution rates in meeting levels of employee benefits and changes, if any, needed in such rates to achieve or preserve a level of funding deemed adequate to enable payment through the indefinite future of the benefit amounts prescribed by the system;
- A plan to amortize any unfunded liability pursuant to s. 112.64, F.S., and a description of actions taken to reduce the unfunded liability;
- A description and explanation of actuarial assumptions;
- A schedule illustrating the amortization of unfunded liabilities, if any;
- A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports; and

⁵ Section 175.101, F.S.

⁶ Section 185.08, F.S.

⁷ In 2013, premium tax distributions to municipalities and special fire districts from the Firefighters' Pension Trust Fund amounted to \$74.7 million, and premium tax distributions to municipalities from the Police Officers' Retirement Trust Fund amounted to \$64.8 million. A copy of the 2013 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 (last visited March 12, 2015).

⁸ Section 112.63(1), F.S., requires an enrolled actuary to certify the scheduled actuarial reports.

- A statement by the enrolled actuary that the report is complete and accurate and that, in his or her opinion, the techniques and assumptions used are reasonable and meet the requirements and intent of the act.

The actuarial cost methods utilized for establishing the amount of the annual actuarial normal cost to support the promised benefits must only be those methods approved in the Employee Retirement Income Security Act of 1974 and as permitted under regulations prescribed by the Secretary of the Treasury.⁹ In addition, s. 112.64, F.S., provides guidelines for the amortization of unfunded liabilities.

If the division determines that a governmental entity has not submitted a complete, accurate or reasonable actuarial valuation or required reports, the division must notify the plan administrator of the deficiency and request an appropriate adjustment or the required information.¹⁰ If after a reasonable period of time, a satisfactory adjustment has not been made, or the required report has not been provided, the department may notify DOR and the Department of Financial Services of the noncompliance and those agencies must withhold any funds not pledged for satisfaction of bonds until such adjustment is made to the report.¹¹ The affected governmental entity may petition the department for a hearing.¹²

In 2013, the Legislature expanded the reporting requirements for defined benefit retirement systems or plans. In addition to the triennial reporting described above, each defined benefit retirement system or plan, excluding the Florida Retirement System (FRS), must electronically report the following information to the department:¹³

- Annual financial statements that are in compliance with the requirements of the Government Accounting Standard Board's Statement No. 67,¹⁴ Financial Reporting for Pension Plans and Statement No. 68, Accounting and Financial Reporting for Pensions, using RP-2000 Combined Healthy Participant Mortality Tables, by gender, with generational projection by Scale AA;
- Annual financial statements similar to those submitted above, but which use an assumed rate of return on investments and an assumed discount rate that is equal to 200 basis points less than the plan's assumed rate of return;
- Information indicating the number of months or years for which the current market value of assets is adequate to sustain the payment of expected retirement benefits; and
- Using the financial statements above, the recommended contributions to the plan stated as an annual dollar value and a percentage of valuation payroll.

The information must first be submitted to the department within 60 days after receipt of the certified actuarial report submitted after the close of the plan year that ends on or after June 30, 2014.¹⁵ After the initial reporting period, each defined benefit retirement system or plan is required to submit the report in each year required by s. 112.63(2), F.S.¹⁶

In addition each defined benefit retirement system or plan, excluding the FRS, must provide the funded ratio of the system or plan as determined in the most recent actuarial valuation as well as the information in the report required by s. 112.664, F.S., as part of the disclosures required under s. 166.241(3), F.S.,¹⁷ and on any website that contains budget information relating to the plan sponsor

⁹ *Id.*

¹⁰ Section 112.63(4)(a), F.S.

¹¹ Section 112.63(4)(b), F.S.

¹² Section 112.63(4)(c), F.S.

¹³ Section 112.664(1), F.S.

¹⁴ The Government Accounting Standards Board (GASB) is the independent organization that establishes and improves standards of accounting and financial reporting for U.S. state and local governments. More information about GASB can be found online at www.gasb.org.

¹⁵ Section 112.664(1), F.S.

¹⁶ *Id.* Section 112.63(2), F.S., refers to the triennial reporting requirements for all defined benefit retirement systems or plans.

¹⁷ Section 166.241(3), F.S., requires municipalities to upload tentative budgets to the municipal website at least two days prior to any budget hearing.

or actuarial or performance information related to the plan.¹⁸ Each defined benefit system or plan, excluding the FRS, that has a publicly available website also must provide on that website:¹⁹

- The plan's most recent financial statement and actuarial valuation, including a link to the division's fact sheet for the plan;
- For the previous 5 years, beginning with 2013, a side-by-side comparison of the plan's assumed rate of return compared to the actual rate of return, as well as the percentages of cash, equity, bond, and alternative investments in the plan portfolio; and
- Any charts and graphs of the data provided in a standardized, user-friendly, and easily interpretable format as prescribed by department rule.

Annual Report for Chapter 175 and Chapter 185 Plans

Chapters 175 and 185, F.S., require every chapter plan and local law plan to submit an annual report to the division, which must include either an independent audit by a certified public accountant or certified statement of accounting, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year; statistical information about the members in the plan, including ineligible members, disabled members, and retired members; a statement of the amount contributed to the retirement fund; and information pertaining to whether any benefits are insured with a commercial insurance company.²⁰ This report is in addition to the reporting requirements in s. 112.63, F.S.

Department of Management Services Oversight of Local Plans

The department is required to gather, catalog, and maintain complete, computerized data information on all public employee retirement systems or plans in the state, based upon a review of audits, reports, and other data pertaining to the systems or plans.²¹ The department must receive and comment on the actuarial reviews maintained by units of local government, as well as cooperate with local retirement systems or plans on matters of mutual concern, and provide technical assistance to units of local government in the assessment and revision of retirement systems or plans.²² In addition, the department must provide a fact sheet for each participating local government defined benefit pension plan summarizing the plan's actuarial status. The fact sheet must include a brief explanation of each element in order to maximize the transparency of the local government plans.²³ As of September 30, 2014, the department reports that there are 491 defined benefit plans sponsored by 249 local governments.²⁴

Mortality Tables

The FRS uses different mortality tables for its general employees and special risk classes for non-disability retirement. The 2014 FRS Valuation used the RP 2000 mortality table with Scale BB with varying mixes of white collar and blue collar. Non-disability retirements have a separate mortality basis for Special Risk Class members compared to all other membership classes.

¹⁸ Section 112.664(2), F.S.

¹⁹ *Id.*

²⁰ Sections 175.261 and 185.221, F.S.

²¹ Section 112.665(1), F.S.

²² *Id.*

²³ *Id.*

²⁴ *Florida Local Government Retirement Systems, 2014 Annual Report, pg. 4 (January 1, 2015).* A copy of the report can be found online at:

http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/local_retirement_section/local_government_annual_reports (last visited March 12, 2015).

The board of trustees for a local government pension plan is permitted to choose the mortality table used in the actuarial valuation report for purposes of determining the actuarially required contributions for the plan. The table below shows the various mortality tables used by local government retirement plans and the frequency of use among the plans.²⁵

Mortality Table	Number of local government plans using the table
1983 Group Annuity Mortality (GAM 83)	18
1994 Group Annuity Mortality (GAM 94)	10
1994 Group Annuity Mortality with Scale AA (GAR 94)	7
Uninsured Population 1994 (UP 94)	3
Retirement Plans 2000 (RP 2000)	440
Internal Revenue Service Prescribed	5
Other	8
Total	491

Effect of the Bill

The bill requires local government pension plans, when conducting the actuarial valuations of their pension plans, to use the mortality tables used in either of the two most recently published actuarial valuation reports of the FRS, including the projection scale for mortality improvement. Appropriate risk and collar adjustments must be made based on plan demographics. The tables must be used for assumptions for preretirement and postretirement mortality. Similarly, the bill revises the mortality tables used in the actuarial disclosures in financial statements submitted to the department.

B. SECTION DIRECTORY:

Section 1. amends s. 112.63, F.S., requiring that actuarial reports for certain retirement plans include mortality tables.

Section 2. amends s. 112.664, F.S., revising information to be included in a defined benefit system or plan's annual report to DMS.

Section 3. provides a declaration of important state interest.

Section 4. provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

²⁵ The chart illustrates the mortality assumptions as of February 16, 2015.
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 DATE: 4/3/2015

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill requires all local government pension plans to use the same mortality table used in either of the two most recently published FRS actuarial valuation reports. Actuarial standards require, to the extent possible, that assumptions used approximate the actual experience of the plan. While several plans are using very dated mortality tables, it is unknown the extent of any adjustments that have been made to align the tables with actual plan experience over time. To the extent that the use of the tables used by the FRS requires significant changes from the current mortality tables used by the local plan, there may be a significant indeterminate negative fiscal impact on those entities. However, the large majority of local governments are currently using the same mortality table as the FRS and should not be affected by the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18, of the Florida Constitution may apply because this bill requires local government pension plans to report and use specified information utilizing a specific mortality assumption, which may result in an increase in the normal costs, and unfunded actuarial liability funding costs if applicable, associated with the funding of the plan. However, an exception may apply because the Legislature has determined in this bill that it serves an important state interest and similarly situated defined benefit pension plans are required to comply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 17, 2015, the Government Operations Subcommittee adopted one amendment and reported the bill favorably with committee substitute. The committee substitute provides that the mortality tables used may be either of the mortality tables used in the last two FRS valuation reports, including the projection scale for mortality improvement. It also requires appropriate risk and collar adjustments to be made based on plan demographics, and requires that the tables be used for preretirement and postretirement mortality.

1 A bill to be entitled
 2 An act relating to publicly funded retirement plans;
 3 amending s. 112.63, F.S.; requiring that actuarial
 4 reports for certain retirement plans include mortality
 5 tables; specifying requirements; amending s. 112.664,
 6 F.S.; revising information to be included in a defined
 7 benefit system or plan's annual report to the
 8 Department of Management Services; providing a
 9 declaration of important state interest; providing an
 10 effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsection (1) of section 112.63, Florida
 15 Statutes, is amended to read:

16 112.63 Actuarial reports and statements of actuarial
 17 impact; review.—

18 (1) Each retirement system or plan subject to the
 19 provisions of this act shall have regularly scheduled actuarial
 20 reports prepared and certified by an enrolled actuary. The
 21 actuarial report shall consist of, but is ~~shall~~ not ~~be~~ limited
 22 to, the following:

23 (a) Adequacy of employer and employee contribution rates
 24 in meeting levels of employee benefits provided in the system
 25 and changes, if any, needed in such rates to achieve or preserve
 26 a level of funding deemed adequate to enable payment through the

27 indefinite future of the benefit amounts prescribed by the
 28 system, which shall include a valuation of present assets, based
 29 on statement value, and prospective assets and liabilities of
 30 the system and the extent of unfunded accrued liabilities, if
 31 any.

32 (b) A plan to amortize any unfunded liability pursuant to
 33 s. 112.64 and a description of actions taken to reduce the
 34 unfunded liability.

35 (c) A description and explanation of actuarial
 36 assumptions.

37 (d) A schedule illustrating the amortization of unfunded
 38 liabilities, if any.

39 (e) A comparative review illustrating the actual salary
 40 increases granted and the rate of investment return realized
 41 over the 3-year period preceding the actuarial report with the
 42 assumptions used in both the preceding and current actuarial
 43 reports.

44 (f) The mortality tables used in either of the two most
 45 recently published actuarial valuation reports of the Florida
 46 Retirement System, including the projection scale for mortality
 47 improvement. Appropriate risk and collar adjustments must be
 48 made based on plan demographics. The tables must be used for
 49 assumptions for preretirement and postretirement mortality.

50 (g)~~(f)~~ A statement by the enrolled actuary that the report
 51 is complete and accurate and that in his or her opinion the
 52 techniques and assumptions used are reasonable and meet the

53 requirements and intent of this act.

54

55 The actuarial cost methods utilized for establishing the amount
 56 of the annual actuarial normal cost to support the promised
 57 benefits shall only be those methods approved in the Employee
 58 Retirement Income Security Act of 1974 and as permitted under
 59 regulations prescribed by the Secretary of the Treasury.

60 Section 2. Subsection (1) of section 112.664, Florida
 61 Statutes, is amended to read:

62 112.664 Reporting standards for defined benefit retirement
 63 plans or systems.—

64 (1) In addition to the other reporting requirements of
 65 this part, within 60 days after receipt of the certified
 66 actuarial report submitted after the close of the plan year that
 67 ends on or after June 30, 2014, and thereafter in each year
 68 required under s. 112.63(2), each defined benefit retirement
 69 system or plan, excluding the Florida Retirement System, shall
 70 prepare and electronically report the following information to
 71 the Department of Management Services in a format prescribed by
 72 the department:

73 (a) Annual financial statements that comply ~~are in~~
 74 ~~compliance~~ with the requirements of the Governmental Accounting
 75 Standards ~~Government Accounting and Standard~~ Board's Statement
 76 No. 67, titled "Financial Reporting for Pension Plans," and
 77 Statement No. 68, titled "Accounting and Financial Reporting for
 78 Pensions," using mortality tables used in either of the two most

79 recently published actuarial valuation reports of the Florida
 80 Retirement System, including the projection scale for mortality
 81 improvement. Appropriate risk and collar adjustments must be
 82 made based on plan demographics. The tables must be used for
 83 assumptions for preretirement and postretirement mortality RP-
 84 2000 Combined Healthy Participant Mortality Tables, by gender,
 85 with generational projection by Scale AA.

86 (b) Annual financial statements similar to those required
 87 under paragraph (a), but which use an assumed rate of return on
 88 investments and an assumed discount rate that are equal to 200
 89 basis points less than the plan's assumed rate of return.

90 (c) Information indicating the number of months or years
 91 for which the current market value of assets are adequate to
 92 sustain the payment of expected retirement benefits as
 93 determined in the plan's latest valuation and under the
 94 financial statements prepared pursuant to paragraphs (a) and
 95 (b).

96 (d) Information indicating the recommended contributions
 97 to the plan based on the plan's latest valuation, and the
 98 contributions necessary to fund the plan based on financial
 99 statements prepared pursuant to paragraphs (a) and (b), stated
 100 as an annual dollar value and a percentage of valuation payroll.

101 Section 3. The Legislature finds that a proper and
 102 legitimate state purpose is served when employees and retirees
 103 of the state and its political subdivisions, and the dependents,
 104 survivors, and beneficiaries of such employees and retirees, are

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105 | extended the basic protections afforded by governmental
106 | retirement systems that provide fair and adequate benefits and
107 | that are managed, administered, and funded in an actuarially
108 | sound manner as required by s. 14, Article X of the State
109 | Constitution and part VII of chapter 112, Florida Statutes.
110 | Therefore, the Legislature determines and declares that this act
111 | fulfills an important state interest.

112 | Section 4. This act shall take effect July 1, 2015.



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: State Affairs Committee
2 Representative Caldwell offered the following:

Amendment (with title amendment)

Remove lines 44-112 and insert:

6 (f) Effective January 1, 2016, the mortality tables used
7 in either of the two most recently published actuarial valuation
8 reports of the Florida Retirement System, including the
9 projection scale for mortality improvement. Appropriate risk and
10 collar adjustments must be made based on plan demographics. The
11 tables must be used for assumptions for preretirement and
12 postretirement mortality.

13 (g) ~~(f)~~ A statement by the enrolled actuary that the report
14 is complete and accurate and that in his or her opinion the
15 techniques and assumptions used are reasonable and meet the
16 requirements and intent of this act.



Amendment No.

18 The actuarial cost methods utilized for establishing the amount
19 of the annual actuarial normal cost to support the promised
20 benefits shall only be those methods approved in the Employee
21 Retirement Income Security Act of 1974 and as permitted under
22 regulations prescribed by the Secretary of the Treasury.

23 Section 2. Effective January 1, 2016, subsection (1) of
24 section 112.664, Florida Statutes, is amended to read:

25 112.664 Reporting standards for defined benefit retirement
26 plans or systems.—

27 (1) In addition to the other reporting requirements of
28 this part, within 60 days after receipt of the certified
29 actuarial report submitted after the close of the plan year that
30 ends on or after June 30, 2014, and thereafter in each year
31 required under s. 112.63(2), each defined benefit retirement
32 system or plan, excluding the Florida Retirement System, shall
33 prepare and electronically report the following information to
34 the Department of Management Services in a format prescribed by
35 the department:

36 (a) Annual financial statements that comply are in
37 compliance with the requirements of the Governmental Accounting
38 Standards Government Accounting and Standard Board's Statement
39 No. 67, titled "Financial Reporting for Pension Plans," and
40 Statement No. 68, titled "Accounting and Financial Reporting for
41 Pensions," using mortality tables used in either of the two most
42 recently published actuarial valuation reports of the Florida
43 Retirement System, including the projection scale for mortality



Amendment No.

44 improvement. Appropriate risk and collar adjustments must be
45 made based on plan demographics. The tables must be used for
46 assumptions for preretirement and postretirement mortality RP-
47 2000 Combined Healthy Participant Mortality Tables, by gender,
48 with generational projection by Scale AA.

49 (b) Annual financial statements similar to those required
50 under paragraph (a), but which use an assumed rate of return on
51 investments and an assumed discount rate that are equal to 200
52 basis points less than the plan's assumed rate of return.

53 (c) Information indicating the number of months or years
54 for which the current market value of assets are adequate to
55 sustain the payment of expected retirement benefits as
56 determined in the plan's latest valuation and under the
57 financial statements prepared pursuant to paragraphs (a) and
58 (b).

59 (d) Information indicating the recommended contributions
60 to the plan based on the plan's latest valuation, and the
61 contributions necessary to fund the plan based on financial
62 statements prepared pursuant to paragraphs (a) and (b), stated
63 as an annual dollar value and a percentage of valuation payroll.

64 Section 3. The Legislature finds that a proper and
65 legitimate state purpose is served when employees and retirees
66 of the state and its political subdivisions, and the dependents,
67 survivors, and beneficiaries of such employees and retirees, are
68 extended the basic protections afforded by governmental
69 retirement systems that provide fair and adequate benefits and



Amendment No.

70 that are managed, administered, and funded in an actuarially
71 sound manner as required by s. 14, Article X of the State
72 Constitution and part VII of chapter 112, Florida Statutes.
73 Therefore, the Legislature determines and declares that this act
74 fulfills an important state interest.

75 Section 4. Except as otherwise expressly provided in this
76 act, this act shall take effect July 1, 2015.

77

78

79

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

80

Remove lines 9-10 and insert:

81

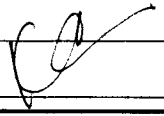
declaration of important state interest; providing effective

82

dates.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4043 Write-in Candidates
SPONSOR(S): Geller
TIED BILLS: IDEN./SIM. BILLS: SB 840

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	11 Y, 0 N	Toliver	Williamson
2) Transportation & Economic Development Appropriations Subcommittee	13 Y, 0 N	Cobb	Davis
3) State Affairs Committee		Toliver <i>LT</i>	Camechis 

SUMMARY ANALYSIS

The Florida Constitution sets forth residency requirements for legislators, county commissioners, justices and judges, and the governor, lieutenant governor, and members of the cabinet. The constitutional residency requirement for legislators, county commissioners, justices and judges has been interpreted by Florida courts to mean that residency within the district represented by the office sought is required only at the time of election.

Section 99.0615, F.S., requires a write-in candidate to reside within the district represented by the office sought at the time of qualification. Two recent Florida District Courts of Appeal have held the statute unconstitutional because it conflicts with the residency requirements of those offices within the Florida Constitution, which requires residency at the time of election and not the time of qualification.

This bill repeals s. 99.0615, F.S., which was found unconstitutional by the First and Fourth District Courts of Appeal.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Residency Requirements for Candidates

The Florida Constitution sets forth eligibility requirements, which includes residency requirements, for legislators,¹ county commissioners,² judges,³ and the governor, the lieutenant governor, and members of the cabinet.⁴ The Florida Supreme Court has held that the legislature is prohibited from imposing any additional eligibility requirements upon candidates for these offices;⁵ however, the legislature is allowed to mandate certain qualifications solely for the purpose of entry onto the ballot, such as full and public disclosure of financial interests, taking an oath, and paying filing fees.⁶

The Florida Constitution sets forth the following residency requirements:

- A legislator must be an elector and resident of the district from which elected, and must have resided in the state for two years prior to the election.⁷
- A county commissioner must be elected from the district from which he or she resides.⁸
- A justice or judge must reside in the territorial jurisdiction of the court from which elected,⁹
- The governor, lieutenant governor, and members of the cabinet must be an elector who has resided in the state for the seven years preceding the election.¹⁰

The constitutional residency requirement for legislators, county commissioners, and justices and judges has been interpreted by Florida courts to mean that residency within the district represented by the office sought is required only at the time of election.¹¹

The Florida Statutes also provide residency requirements in certain instances. Section 1001.361, F.S., provides that notwithstanding any local law or county charter, each candidate for district school board member must be a resident of the district school board member residence area at the time of qualification. Section 1001.463, F.S., provides that the office of district school superintendent is automatically vacated if the superintendent moves from the district he or she represents.

As for municipal elections, s. 100.3605, F.S., provides that the Florida Election Code governs the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision. As such, the residency requirement for city commissioners is at the time of assuming office, unless otherwise provided by special act, charter, or ordinance provision.¹²

¹ Article III, s. 15(c), FLA. CONST.

² Article VIII, s. 1(e), FLA. CONST.

³ Article V, s. 8, FLA. CONST.

⁴ Article IV, s. 5, FLA. CONST.

⁵ *State v. Grassi*, 532 So.2d 1055(Fla. 1988).

⁶ *Matthews v. Steinberg*, 153 So.3d 295, 297 (Fla. 1st DCA 2014) citing *Norman v. Ambler*, 46 So.3d 178, 182-83 (Fla. 1st DCA 2010).

⁷ Article III, s. 15(c), FLA. CONST.

⁸ Article VIII, s. 1(e), FLA. CONST.

⁹ Article V, s. 8, FLA. CONST.

¹⁰ Article IV, s. 5(b), FLA. CONST.

¹¹ *Norman*, 46 So.3d at 183 (residency of legislators); *Grassi*, 532 So.2d at 1056 (residency of county commissioners); *Miller v. Mendez*, 804 So.2d 1243, 1246-47 (Fla. 2001) (residency of judges).

¹² Department of State agency analysis of HB 4043 (on file with the Government Operations Subcommittee).

Residency Requirements for Write-in Candidates

The Florida Statutes provide a residency requirement for write-in candidates. Section 99.0615, F.S., requires a write-in candidate to reside within the district represented by the office sought at the time of qualification.

Litigation Concerning Residency Requirements for Write-in Candidates

In September 2014, the Florida Fourth District Court of Appeal held in *Francois v. Brinkmann* that s. 99.0615, F.S., was unconstitutional because “the timing of its residency requirement for write-in candidates conflicts with the timing of the residency requirement for county commission candidates as established by Article VIII, section 1(e) of the Florida Constitution.”¹³ The case involved a county commission primary where five candidates were on the ballot and an additional candidate, Mr. Francois, entered the race as a write-in candidate.¹⁴ Mr. Francois did not live in the district represented by the office sought at the time of filing his papers to qualify as a write-in candidate.¹⁵ In *Francois*, the court reasoned that s. 99.0615, F.S., imposed qualifications in contravention to those specified in the constitution and, therefore, the statute was unconstitutional.¹⁶

One month following the *Francois* decision, the Florida First District Court of Appeal also held s. 99.0615, F.S., unconstitutional in *Matthews v. Steinberg*.¹⁷ The *Matthews* case involved a write-in candidate for state representative who did not “reside within the district he wished to represent at the time he filed his qualifying paperwork with the Division of Elections.”¹⁸ The *Matthews* court, like the *Francois* court,¹⁹ found that the requirement that residency occur at the time of qualification within s. 99.0615, F.S., was in direct contravention of the Florida Constitution’s requirement of residency at the time of election and, therefore, was unconstitutional.²⁰

Effect of the Bill

The bill repeals s. 99.0615, F.S., which was found unconstitutional by the First and Fourth District Courts of Appeal.

B. SECTION DIRECTORY:

Section 1: Repeals s. 99.0615, F.S., relating to write-in candidate residency requirements.

Section 2: Provides an effective date of upon becoming a law.

¹³ *Francois v. Brinkmann*, 147 So.3d 613, 616 (Fla. 4th DCA 2014); appeal filed with the Florida Supreme Court (*Brinkmann v. Francois*, SC14-1899).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Francois*, 147 So.3d at 616.

¹⁷ *Matthews*, 153 So.3d 295; appeal filed with the Florida Supreme Court (*Steinberg v. Matthews*, SC14-2202).

¹⁸ *Id.*

¹⁹ *Id.* at 297 citing *Francois*, 147 So.3d at 615 (“The statutory requirement directly contravenes and adds to the constitutional fiat that legislators reside in the district at the time of election.”)

²⁰ *Id.* at 298

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

2. Expenditures:

The bill does not appear to impact state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill is exempt from the mandate requirements because it is amending the elections laws.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to require any additional rulemaking authority for the Division of Elections, Department of State.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

HB 4043

2015

1 A bill to be entitled
2 An act relating to write-in candidates; repealing s.
3 99.0615, F.S., relating to a requirement that a write-
4 in candidate reside within the district of the office
5 sought at the time of qualification; providing an
6 effective date.

7

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

9

10 Section 1. Section 99.0615, Florida Statutes, is repealed.

11 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 7117 Public Records Exemption
SPONSOR(S): State Affairs Committee
TIED BILLS: HB 7115 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee		Williamson	Camechis

SUMMARY ANALYSIS

HB 7115 requires hospital districts and county hospitals to collect and submit to an approved provider under contract with the Department of Financial Services (department) information on claims and denial of claims for payment for medical services issued to insurers and governmental entities. Using this information, the approved provider under contract with the department will calculate a "denial rate", which will affect whether the hospital district can levy additional ad valorem taxes or the county hospital can receive certain additional county funding.

This bill, which is linked to the passage of HB 7115, creates a public record exemption for personal identifying information and health information held by the department, or an approved provider under contract with the department, pursuant to a capital recovery report. The department and approved provider may share the information with each other, and may release data or rate information so long as it does not include confidential and exempt information.

The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, 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 state or local governments.

The bill provides an effective date that is contingent on the passage of the hospital capital recovery bill or similar legislation.

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 record exemption. The bill creates a public record 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 (act) 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:³

- 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.

The act provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.⁴

HB 7115 – Capital Recovery

HB 7115 requires each hospital district or county hospital to submit a capital recovery report to the approved provider under contract with the Department of Financial Services (department) within 60 calendar days of the end of the fiscal year. The report must contain data on all claims submitted electronically by a county hospital or all medical facilities in a hospital district to a government entity or insurance company for payment during the fiscal year, along with data on the response and payment status of all such claims. A certified public accountant must attest that the report is accurate, complete, and consistent with generally accepted accounting principles.

Each hospital district or county hospital may prepare the report itself, or it may hire an approved provider⁵ to prepare the report on its behalf. The report is used by the department's approved provider to calculate a denial rate. The denial rate is defined as the dollar value of all unpaid electronically submitted claims (based on the contracted or published rate for such claims) as a percentage of the

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

² See s. 119.15, F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 119.15(3), F.S.

⁵ HB 7115 defines the term "approved provider" to mean a business that generates at least 85 percent of its revenues from denied claims management, that has been in existence for at least 5 years, and that employs at least 30 certified claims specialists.

total claims submitted electronically during the same time period. Any claims made to an insurer that has declared bankruptcy are removed from the calculation of the denial rate.

If the hospital district or county hospital does not meet denial rate benchmarks set in the bill or if it does not timely submit a capital recovery report to the department, then the hospital district will not be able to increase its tax revenues and the county hospital will not be able to receive additional county funding.

Effect of Proposed Changes

This bill creates a public record exemption for personal identifying information and health information held by the department, or an approved provider under contract with the department, pursuant to a capital recovery report. The bill authorizes the department and an approved provider to share the confidential and exempt⁶ information with each other. In addition, the department or an approved provider may release information if it is presented as numerical data or denial rates; however, the date or rate information may not include any confidential and exempt information.

The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a public necessity statement as required by the State Constitution.

The bill provides an effective date that is contingent upon the passage of HB 7115 or similar legislation, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

B. SECTION DIRECTORY:

- Section 1: Creates s. 189.057, F.S., to create a public record exemption for personal identifying information and health information held by the department or an approved provider pursuant to a capital recovery report.
- Section 2: Provides a public necessity statement.
- Section 3: Provides an effective date contingent upon the passage of HB 7115 or similar legislation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may create a minimal fiscal impact on the department or approved provider because staff responsible for complying with public record requests could require training related to the creation of the public record exemption. In addition, the department could incur costs associated with

⁶ 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 statute. See Attorney General Opinion 85-62 (August 1, 1985).

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.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

None.

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 record exemption. The bill creates a new public record 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 exemption. The bill creates a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created or expanded public record 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 contained in a capital recovery report. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its stated purpose.

Right to Privacy

Article I, s. 23 of the State Constitution grants all Florida citizens the right to privacy. Consequently, Florida courts have recognized patients' rights to secure the confidentiality of their health information

(medical records); however, that right must be balanced with and yields to any compelling state interest.⁷

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

⁷ See *State v. Johnson*, 814 So.2d 390 (Fla. 2002); distinguished in *Limbaugh v. State of Florida* 887 So.2d 387 (Fla. 4th DCA 2004); and *Rasmussen v. S. Fla. Blood Serv. Inc.*, 500 So.2d 533 (Fla. 1987) (privacy interests of blood donors defeated AIDS victim's claim to obtain via subpoena names and addresses of blood donors who may have contributed the tainted blood).

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 189.057, F.S.; providing an exemption from public
 4 records requirements for personal identifying
 5 information and health information held by the
 6 Department of Financial Services or an approved
 7 provider under contract with the department pursuant
 8 to a capital recovery report; authorizing release of
 9 the confidential and exempt information; providing for
 10 future legislative review and repeal of the exemption;
 11 providing a statement of public necessity; providing a
 12 contingent effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Section 189.057, Florida Statutes, is created
 17 to read:

18 189.057 Public records exemption; capital recovery
 19 reports.-

20 (1) Personal identifying information and health
 21 information held by the Department of Financial Services, or an
 22 approved provider under contract with the department, pursuant
 23 to s. 189.056 is confidential and exempt from s. 119.07(1) and
 24 s. 24(a), Art. I of the State Constitution.

25 (2) The Department of Financial Services and an approved
 26 provider may share such confidential and exempt information with

27 each other.

28 (3) The Department of Financial Services or an approved
 29 provider may release information if it is presented purely as
 30 numerical data or denial rates as defined in s. 189.056;
 31 however, the data or rate information may not include any
 32 confidential and exempt personal identifying information or
 33 health information.

34 (4) This section is subject to the Open Government Sunset
 35 Review Act in accordance with s. 119.15 and shall stand repealed
 36 on October 2, 2020, unless reviewed and saved from repeal
 37 through reenactment by the Legislature.

38 Section 2. The Legislature finds that it is a public
 39 necessity that personal identifying information and health
 40 information held by the Department of Financial Services, or an
 41 approved provider under contract with the department, pursuant
 42 to s. 189.056, Florida Statutes, be made confidential and exempt
 43 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
 44 the State Constitution. The Legislature finds that it is a
 45 public necessity to ensure responsible management of public
 46 funds used by hospital districts. State review of the billing
 47 practices of these hospital districts is an important step
 48 toward responsible management of those public funds. The public
 49 records exemption for personal identifying information and
 50 health information held by the Department of Financial Services
 51 or an approved provider pursuant to a capital recovery report
 52 ensures that information of a sensitive, personal nature is

53 protected. Further, each individual has a reasonable expectation
 54 of and a right to privacy in all matters concerning personal
 55 health information. The Legislature further finds that an
 56 individual's personal health information is traditionally a
 57 private and confidential matter between the patient and health
 58 care provider. The private and confidential nature of personal
 59 health matters pervades both the public and private health care
 60 sectors, and public disclosure of such personal identifying
 61 information and health information could negatively affect a
 62 person's business or personal relationships. Therefore, it is
 63 the finding of the Legislature that such information held by the
 64 Department of Financial Services or an approved provider under
 65 contract with the department pursuant to s. 189.056, Florida
 66 Statutes, must be made confidential and exempt from s.
 67 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 68 State Constitution.

69 Section 3. This act shall take effect on the same date
 70 that HB 7115 or similar legislation establishing hospital
 71 capital recovery practices takes effect, if such legislation is
 72 adopted in the same legislative session or an extension thereof
 73 and becomes a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB SAC 15-03 Online Voter Registration
SPONSOR(S): State Affairs Committee
TIED BILLS: IDEN./SIM. BILLS: CS/SB 228

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee		Williamson	Camechis

SUMMARY ANALYSIS

The Florida Voter Registration Act provides the qualifications and requirements necessary for a person to register to vote in Florida. The Department of State has prescribed by rule a uniform statewide voter registration application designed to elicit certain information from the applicant. An applicant must mail or hand deliver a voter registration application to the office of the supervisor of elections, the Division of Elections, a driver license office, a voter registration agency, or an armed forces recruitment office.

As of December 2014, the National Conference on State Legislatures found that 20 states offer online voter registration; four states passed legislation to create an online registration system, but had not yet implemented it; and three states offer some form of limited online voter registration. However, Florida does not provide an online voter registration system.

Beginning October 1, 2017, the bill creates an online voter registration system for registering first-time voters and updating existing voter registrations. It requires the Division of Elections to establish a secure Internet website and develop security measures to prevent unauthorized tampering with a voter's registration information, including the use of a unique identifier for each applicant. The system must comply with certain federal laws to ensure equal access to voters with disabilities.

Upon submission of a completed online voter registration application, the website must generate an immediate electronic confirmation that the supervisor of elections has received it, and provide instructions with respect to checking the status of the application.

The Division of Elections must submit a report to the President of the Senate and the Speaker of the House of Representatives regarding implementation of online voter registration applications no later than January 1, 2016.

The bill appears to have an indeterminate fiscal impact on state expenditures; however, it does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Voter Registration

The Florida Voter Registration Act provides the qualifications and requirements necessary for a person to register to vote in Florida.¹ In order for a person to be eligible to vote in a Florida election, the person must be:²

- At least 18 years of age;
- A citizen of the United States;
- A legal resident of the State of Florida;
- A legal resident of the county in which that person seeks to be registered; and
- Registered to vote pursuant to the Florida Election Code.

A person who has been adjudicated mentally incompetent or a person who has been convicted of a felony may not vote until his or her right to vote has been legally restored.³

The Department of State has prescribed by rule a uniform statewide voter registration application⁴ designed to elicit certain information from the applicant.⁵ A voter registration application is considered complete if it contains the following information necessary to establish the applicant's eligibility:⁶

- The applicant's name, legal residence address, and date of birth.
- A mark in the checkbox affirming the applicant is a citizen of the United States.
- The applicant's current and valid Florida driver license number or identification number, or if the applicant does not have a Florida driver license or identification card, then the last four numbers of his or her social security number.⁷
- A mark in the checkbox affirming that the applicant has not been convicted of a felony or that, if convicted, has had his or her civil rights restored.
- A mark in the checkbox affirming that the applicant has not been adjudicated mentally incapacitated with respect to voting or that, if so adjudicated, has had his or her right to vote restored.
- The applicant's signature or a digital signature transmitted by the Department of Highway Safety and Motor Vehicles.

An applicant must mail or hand deliver a voter registration application to the office of the supervisor of elections, the Division of Elections, a driver license office, a voter registration agency,⁸ or an armed forces recruitment office.⁹ In addition, third-party registration organizations may collect and deliver voter registration applications.¹⁰

¹ Part II, chapter 97, F.S.

² Section 97.041(1)(a), F.S.

³ Section 97.041(2), F.S.

⁴ Section 97.052(1), F.S., requires the Department of State to prescribe by rule a uniform statewide voter registration application for use in Florida. See Fla. Admin. Code R. 1S-2.040 incorporating form DS-DE 39.

⁵ Section 97.052(2), F.S., outlines specific information the uniform statewide voter registration application must elicit.

⁶ Section 97.053(5)(a), F.S.

⁷ If an applicant has not been issued a current and valid Florida driver license, identification card, or social security number, the applicant must affirm this fact in the manner prescribed in the uniform statewide voter registration application.

⁸ Section 97.021(41), F.S., defines the term "voter registration agency" to mean any office that provides public assistance or serves persons with disabilities, a center for independent living, or a public library.

⁹ Section 97.053(1), F.S.

¹⁰ See s. 97.0575, F.S.

In order to be eligible to vote, an applicant's completed voter registration application must be received or postmarked before the registration book closing for an election, which occurs 29 days before that election.¹¹ However, an individual or accompanying family member who has been discharged or separated from the uniformed services, Merchant Marine, or employment outside the territorial limits of the United States may register at the local supervisor of elections office until 5:00 p.m. on the Friday before the election.¹²

Department of Highway Safety – Voter Registration

The Department of Highway Safety and Motor Vehicles (DHSMV) must provide the opportunity to register to vote to individuals who come to a DHSMV office for the purpose of applying for or renewing a driver license or identification card, or changing an address on their driver license or identification card.¹³ Within 24 hours after receipt, the DHSMV must transmit electronically completed voter registration applications to the statewide voter registration system. The DHSMV must forward completed paper voter registration forms within five days after receipt.¹⁴

According to the DHSMV:¹⁵

Currently, driver license examiners ask driver license or identification card applicants if the applicant would like to apply to register to vote or update his or her current voter registration information during the credential process. If so, an electronic voter registration application is completed, with a digital signature, and the voter oath is administered. The voter registration application includes data specific to the voter registration process, such as whether the person is a convicted felon, party affiliation, military status, whether the person needs voting assistance and previous voter registration data. The voter application also requires the examiner to re-key the customer's address in order to verify it against a Department of State database, as required by law. The customer receives a printed application for his or her review. At the close of business, the day's voter registration applications, changes, and declinations are submitted electronically to the Department of State.

Online Voter Registration

As of December 2014, the National Conference on State Legislatures found that:¹⁶

- Twenty states offer online voter registration;
- Four states passed legislation to create an online registration system, but had not yet implemented it; and
- Three states offer some form of limited online voter registration.

For online voter registration, an applicant completes a voter registration form via an Internet site and the paperless form is submitted electronically to election officials. In most states, the application is reviewed electronically and the new registration is added to the state's voter registration list.¹⁷

In order to validate the information, the information on the online voter registration form is compared against the information provided by the same individual when he or she received a driver license or other state-issued identification card. The signature on record for the driver license or state-issued

¹¹ Section 97.055(1), F.S.

¹² Section 97.0555, F.S. This exception applies only to an individual or accompanying family member who has been "discharged or separated."

¹³ Section 97.057(1), F.S.

¹⁴ Section 97.057(4), F.S.

¹⁵ DHSMV 2014 Agency Legislative Bill Analysis of SB 784, at p. 2 (January 31, 2014), on file with the State Affairs Committee.

¹⁶ Overview of Online Voter Registration by the National Conference of State Legislatures (December 10, 2014), available at <http://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx> (last viewed March 26, 2015).

¹⁷ *Id.*

identification card becomes the signature on record for voting. If the information does not match, the application is sent to election officials for further review or action.¹⁸

Currently, online voter registration systems are not equipped to register voters who do not have state-issued driver licenses or identification cards. Those applicants must use a paper registration form.¹⁹

Effect of Proposed Changes

Beginning October 1, 2017, the bill creates an online voter registration system for registering first-time voters and updating existing voter registrations. It requires the Division of Elections to establish a secure Internet website and develop security measures to prevent unauthorized tampering with a voter's registration information, including the use of a unique identifier for each applicant. The system must comply with certain federal laws to ensure equal access to voters with disabilities.²⁰

Upon submission of a completed online voter registration application, the website must generate an immediate electronic confirmation that the supervisor of elections has received it, and provide instructions with respect to checking the status of the application.

The new online voter registration system must:

- Compare an applicant's driver license number or Florida identification number with DHSMV records to confirm the name and birth date of the applicant.
- If the applicant's name and birth date are consistent, electronically transmit the application to the appropriate supervisor of elections along with the applicant's digital signature (if he or she has one on file with the DHSMV), in which case the application process proceeds electronically.
- If an otherwise eligible applicant's name and birth date cannot be verified, or if the applicant has no driver license or Florida identification card, the system must populate the form and direct the applicant to print, sign, and date the application and deliver it to the appropriate supervisor of elections office for disposition pursuant to s. 97.073, F.S.

The bill provides that a legal distinction may not be made between online voter registration and voter registration in person, by mail, or by other methods provided by general law.

The Division of Elections must submit a report to the President of the Senate and the Speaker of the House of Representatives regarding implementation of online voter registration applications no later than January 1, 2016. The report must summarize progress to date in implementing online voter registration and expected implementation timeframes. In addition, it must propose any further legislation needed to facilitate online voter registration.

B. SECTION DIRECTORY:

Section 1 amends s. 97.0525, F.S., relating to online voter registration.

Section 2 creates an unnumbered section of law, requiring the Division of Elections to report to the Legislature regarding online voter registration implementation.

Section 3 provides an effective date of July 1, 2015.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ The online voter registration system must conform to nationally accepted standards for accessibility for individuals with disabilities, including s. 508 of the Rehabilitation Act of 1973, s. 255 of the Telecommunications Act of 1996, and the Web Content Accessibility Guidelines of the World Wide Web Consortium.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

According to the Department of State, it is unable to determine the cost of implementing an online voter registration system; however, based on information from other states, the department estimates that the costs could range from \$250,000 up to \$1.8 million. The Department of State indicates that developing the online voter registration system as well as upgrading the Florida Voter Registration System to interface with the new system will require an increase in staff.²¹

According to a 2014 bill analysis of SB 784,²² the DHSMV estimates that the bill will require 270 non-recurring programming hours at a cost of \$20,400 to implement the provisions.²³ The DHSMV has not provided an updated fiscal analysis associated with the impacts of the 2015 legislation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Art. VII, s. 18 of the State Constitution because it is an election law.

2. Other:

None.

²¹ Department of State 2015 Agency Legislative Bill Analysis of CS/SB 228, at p. 4 (March 30, 2015), on file with the State Affairs Committee.

²² SB 784 (2014) by Senator Clemens required the Department of State to develop an online voter registration system, and required the DHSMV to verify information submitted online.

²³ DHSMV 2014 Agency Legislative Bill Analysis of SB 784, at p. 4 (January 31, 2014), on file with the State Affairs Committee.

B. RULE-MAKING AUTHORITY:

Section 97.012(2), F.S., provides that it is the responsibility of the Secretary of State to provide uniform standards for the "proper and equitable implementation of the registration laws by administrative rule." As such, additional rulemaking authority does not appear necessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to online voter registration; creating
 3 s. 97.0525, F.S.; requiring the Division of Elections
 4 of the Department of State to develop an online voter
 5 registration system; providing application and
 6 security requirements; requiring the system to compare
 7 information submitted online with Department of
 8 Highway Safety and Motor Vehicles records; providing
 9 for the disposition of voter registration
 10 applications; requiring system compliance with federal
 11 accessibility provisions; providing for construction;
 12 requiring the division to report to the Legislature
 13 regarding online voter registration implementation by
 14 a specified date; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 97.0525, Florida Statutes, is created
 19 to read:

20 97.0525 Online voter registration.—

21 (1) Beginning October 1, 2017, an applicant may submit an
 22 online voter registration application using the procedures set
 23 forth in this section.

24 (2) The division shall establish a secure Internet website
 25 to permit an applicant to:

26 (a) Submit a voter registration application, including

27 first-time voter registration applications and updates to
 28 existing voter registration records.

29 (b) Submit information necessary to establish an
 30 applicant's eligibility to vote, pursuant to s. 97.041, which
 31 must include the information required for the uniform statewide
 32 voter registration application pursuant to s. 97.052(2).

33 (c) Swear to the oath required pursuant to s. 97.051.

34 (3) The division shall establish appropriate technological
 35 security measures, including use of a unique identifier for each
 36 applicant, to prevent unauthorized persons from altering a
 37 voter's registration information.

38 (4) (a) The online voter registration system shall compare
 39 the Florida driver license number or Florida identification
 40 number submitted pursuant to s. 97.052(2)(n) with information
 41 maintained by the Department of Highway Safety and Motor
 42 Vehicles to confirm that the name and date of birth on the
 43 application are consistent with the records of the Department of
 44 Highway Safety and Motor Vehicles.

45 (b) If the applicant's name and date of birth are
 46 consistent with the records of the Department of Highway Safety
 47 and Motor Vehicles, the online voter registration system shall
 48 transmit, using the statewide voter registration system
 49 maintained pursuant to s. 98.035, the applicant's registration
 50 application, along with the digital signature of the applicant
 51 on file with the Department of Highway Safety and Motor
 52 Vehicles, to the supervisor of elections. The applicant's

53 digital signature satisfies the signature requirement of s.
 54 97.052(2)(q).

55 (c) If the applicant's name and date of birth cannot be
 56 verified by the records of the Department of Highway Safety and
 57 Motor Vehicles, or if the applicant indicated that he or she has
 58 not been issued a Florida driver license or Florida
 59 identification card, the online voter registration system shall
 60 populate the applicant's information into a printable voter
 61 registration application pursuant to s. 97.052(2) and direct the
 62 applicant to print, sign, and date the application and deliver
 63 the application to the supervisor of elections for disposition
 64 pursuant to s. 97.073.

65 (5) Upon submission of a completed online voter
 66 registration application, the website must generate an immediate
 67 electronic confirmation that the supervisor of elections has
 68 received the application and provide instructions regarding the
 69 ability of a registrant to check the status of the application
 70 thereafter.

71 (6) Except as otherwise provided in this section, the
 72 supervisor of elections shall process the application pursuant
 73 to s. 97.053.

74 (7) The online voter registration system must conform to
 75 nationally accepted standards for accessibility for individuals
 76 with disabilities, including s. 508 of the Rehabilitation Act of
 77 1973, s. 255 of the Telecommunications Act of 1996, and the Web
 78 Content Accessibility Guidelines of the World Wide Web

79 | Consortium, to ensure equal access for voters with disabilities.

80 | (8) A legal distinction may not be made between online
 81 | voter registration under this section and voter registration in
 82 | person, by mail, or by other methods provided by general law.

83 | Section 2. No later than January 1, 2016, the Division of
 84 | Elections shall submit a report to the President of the Senate
 85 | and the Speaker of the House of Representatives regarding the
 86 | implementation of online voter registration. In the report, the
 87 | division shall summarize progress to date in implementing online
 88 | voter registration and expected implementation timeframes, and
 89 | shall propose any further legislation needed to facilitate
 90 | online voter registration.

91 | Section 3. This act shall take effect July 1, 2015.