

1986

Session Law 86-041

Florida Senate & House of Representatives

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Date: April 28, 1986
Revised: April 29, 1986
Final: May 1, 1986

HOUSE OF REPRESENTATIVES
COMMITTEE ON RETIREMENT, PERSONNEL & COLLECTIVE BARGAINING
STAFF ANALYSIS

BILL #: HB 625
RELATING TO: Municipal Firefighters Retirement
SPONSOR(S): Representatives Morgan and Hazouri
EFFECTIVE DATE: July 1, 1986
COMPANION BILL(S): CS/SB 207
OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2)

I. SUMMARY:

A. Present Situation:

Chapter 175, Florida Statutes, was created in 1953 to provide a uniform retirement system for municipal firefighters throughout the state. Plans which meet the standards set forth in the chapter are partially funded from a two percent excise tax on the gross receipts of premiums paid for property insurance written by foreign (i.e., not domiciled in Florida) insurance companies covering property within municipal corporate limits. Any municipality may impose this tax by ordinance once it has established a qualifying retirement plan; however, the tax is collected by the Department of Insurance and remitted to the municipalities on an annual basis for deposit into the local "Municipal Firefighters' Officers' Retirement Trust Fund" maintained by a local board of trustees. The fund does not receive the entire 2%; disbursements are limited to one-half the tax collected (1%) or 6% of payroll (up to a maximum of the full 2% tax), whichever is greater. The insurance company receives a tax credit against the 2% state premium tax imposed pursuant to s. 624.509.

The funds derived from this excise tax on property insurance are required to be used exclusively to provide primary or supplemental retirement benefits to firefighters employed by the municipality. Benefits may be paid under a plan which tracks the statutorily established design or under a plan which meets the minimum requirements specified in s. 175.351.

(Note: Since this bill substantially revises much of Chapter 175 and in doing so covers many aspects of the firefighter retirement systems, a section by section analysis follows.)

B. Probable Effect of Proposed Changes:

Generally, the overall effect of HB 625 would be to remove control of Chapter 175 pension plans from municipal officials and provide almost complete independence to the boards of trustees which operate the plans, strengthen audit and actuarial review controls, revise the investment authority of the boards of trustees, and substantially improve member minimum benefits.

A section by section analysis of the proposed changes is presented below:

Section 1

Intent: Would expand the language of 175.021, F.S., on legislative intent, to include the intent to implement s. 14, Art. X of the Florida Constitution. It also would express the intent to establish minimum standards for the operation and funding of systems.

Current Law: There is currently no reference in Chapter 175 with respect to compliance with the actuarial soundness requirements of Article X, Section 14, of the State Constitution.

Section 2

Average Final Compensation: The bill would revise the definition of AFC to provide for AFC equal to the average compensation for the 5 best years of the last 10 years of service. This is more beneficial to the employee than the current provisions, but is not as liberal as the current FRS AFC which, upon the employee's request, is based on the 5 best years of compensation.

Current Law: As is the case under FRS, benefit calculations under Chapter 175 are based on years of service, service credit, and average final compensation (AFC). Section 175.032(2)(a) establishes AFC as the average salary during the best 10 of the last 15 years of service.

Section 3

Boards of Trustees: (a)Amends s. 175.061, to vest sole responsibility for fund administration in a board of trustees effective October 1, 1986. (b)The boards would consist of 5 members: two residents of the municipality appointed by the legislative body; two full-time firefighters elected by a majority vote of firefighters under the plan and a fifth member elected by the other four, but appointed "as a ministerial act" by the legislative body. Each resident member would have a 2 year term but could be replaced by the body that appointed the member. The proposed change would permit mayors, city managers, etc., to serve on the board. But officials appointed under Chapter 63-249, Laws of Florida, would have their terms terminate as of September 30, 1986. Firefighters would serve 2 years unless they left their departments. The boards will elect a

chairman from their membership. The trustees are not paid but receive expenses.

Current Law: Municipal firefighters' retirement systems are administered by local boards of trustees. Under s. 175.061 such boards consist of the mayor, the fire chief, two firefighters, and a resident of the municipality. The mayor and the fire chief serve on the board for as long as they hold office and the other members serve two year terms. The mayor is the statutorily designated chairman of the board.

Section 4

Investment Policy: Would delete investment authority for boards provided by s. 175.071(1)(b) 3 and 4 which permitted the boards to hold county and municipal bonds under certain conditions. Section 175.071(1)(5)(b) and (c) would be amended to remove restrictions in the purchase of corporate stocks or bonds. Section 175.071(1)(5)(d) would be amended to permit the boards to invest up to 5 percent (up from 1 percent) of their holdings in the stock of one company. The limit on the aggregate stock of an issuing company the board can invest in is also raised to 5 percent from 1 percent. Limits issuing investments in equities to 30 percent of the fund, but provides an exception for certain funds with higher rates authorized prior to this act. It establishes the board as the sole and exclusive body with administrative responsibility for funds, but prohibits boards from amending retirement plans without municipal approval. It provides for professional evaluation once every three years by an independent consultant.

Current Law: Section 175.071(1) specifies the types of investments in which local boards may invest Chapter 175 pension funds under their control. These include FDIC and FSLIC insured accounts, obligations of the federal government, county full faith and credit bonds, state bonds, certain municipal obligations, and, within limits, the stocks and bonds of certain corporations. Investment in corporate equities is limited to 10% of the portfolio, and limits are also specified with respect to concentration in the equities issued by one company.

Comment: Under these changes it could be expected that a local board would be able to improve its investment return at the expense of an increase in risk.

Section 5

Required Member Contribution: By the creation of s. 175.091(8) and s. 175.152, the bill would apparently authorize a board of trustees to reduce the member contribution to no less than 1% of salary. This authorization is not expressly stated, but appears to be implied by the statement in s. 175.021 (as amended by the act) that the act establishes "minimum standards" for the plans and by the prohibitions in ss. 175.091(8) and 175.152 against reducing the contribution to less than 1%.

Section 6

Technical: Inserts word "state" before "excise tax" in 175.101, and deletes words "or license" before tax.

Section 7

DOI Administrative Costs: Would remove the \$30,000 cap on expenses DOI may charge as necessary to administer tax collection and distribution for program. Replaces with authorization to deduct appropriated expenses. Requires municipalities to comply with Chapter to participate in fund distributions.

Section 8

Deposits: The bill would require deposit of funds, other than member contributions, within five days of receipt. Employee contributions withheld from salary would be required to be deposited at least monthly.

Current Law: Section 175.131 requires that funds received by a municipality be deposited into its pension fund "immediately"; there is no objective standard for timeliness.

Comment: The 5-day deposit requirement specified in the bill is stricter than the requirements of s. 112.64(1) which allow an employer 30 days after receipt to deposit funds received from the state for allocation to a retirement system.

Section 9

Technical: Amends 175.141 to substitute language "payment of excise tax credit on similar state excise or license tax" in place of "tax imposed by municipalities under this act not additional to state excise tax; credit given on state tax." Substitutes "part IV of Chapter 624" for "law", and "Insurance Commissioner and Treasurer" for State Treasurer.

Section 10

Deposits: Creates s. 175.152 requires employers to deduct 5 percent from each installment of salary and to deposit as provided in 175.301, requires that municipality maintain a separate fund, and provide liability standard. The member contribution may not be lower than 1 percent. See Section 4, Supra., Section 17, Infra.

Section 11

Retirement Requirement: Amends s. 176.162 to permit retirement at 55 with 10 years of service, or at 52 with 25 years of service, rather than at age 60 with 10 years of service. Applies the same standard for determining normal retirement date. Deletes language setting monthly retirement rate for firefighters who contribute 3 percent of salary s. 176.162. Amends

175.162(2)(a) to reduce retirement income by money received for disability payments. Limits liability for increments to present available state funds. Limits reduction for early retirement.

Current Law: Section 175.162(4) specifies the requirements for early retirement under Chapter 175. Under this section the benefit at early retirement is determined by computing the benefit in the normal way and then actuarially reducing that amount "...to take into account the firefighter's younger age and the earlier commencement of retirement income benefits...". No more objective standard is specified.

Comment: The bill would cap the actuarial reduction for early retirement at "3% per year".

Section 12

Prohibited Options: Creates new (e) which prohibits changes in benefit options after first retirement check is cashed or deposited and changes word "will" to shall in s. 175.171.

Current Law: Section 175.171 specifies various benefit options which are available under Chapter 175.

Comment: The bill would require that a benefit option choice become irrevocable when a member cashes his first retirement check.

Section 13

Disability Retirement: Reduces from 10 to 5 years both the number of years required to qualify for disability retirement, and the number of years contributions are required to be made to the fund prior to retirement. Prohibits application of disability provisions to officers who have reached normal retirement age. Requires that line of duty disability payments be at least 42 percent of average monthly compensation at retirement date. Other than line of duty would be no less than 25 percent, or at the accrued benefit rate if higher. Deletes authorization for lump sum payment, and the limitations on officers who pay 3 percent. Requires that disability retirement benefits be paid on first day of month following determination, but paid from date of determination. Deletes provision that allowed payments on first day of month after determination, or after disability existed for six months.

Current Law: Section 175.191 establishes the requirements and benefits for disability retirement under the chapter. Salient provisions include a 10-year vesting period, a benefit determined as an income for 10 years certain and life which can be provided by the "single sum value of the deferred monthly retirement income beginning at normal retirement date which has accrued to his date of disability" (based on a 2% service credit for those members contributing 5% of salary and on a 1.2% service credit for those covered by Social Security and contributing only 3% of

salary - See "Benefit Calculations", above), and a waiting period before benefits commence of at least 6 months after the date the disability occurred.

Comment: HB 625 would substantially alter the disability provisions under Chapter 175 in several ways, almost all of which would be beneficial to disabled employees. The bill would establish the disability benefit as the accrued benefit (years x service credit x AFC without reduction for age) with a minimum benefit of 42% for line-of-duty disability and 25% for out of line-of-duty disability. (These provisions generally track the FRS eligibility and benefit provisions with the major exception that the FRS has a 10-year vesting period for out-of-line disability and no vesting period for line-of-duty disability; HB 625 provides 5-year vesting for both.) Under HB 625, out of line-of-duty disability benefits would not be available to a member who had reached early or normal retirement age. The bill would also delete the 6-month waiting period; benefits would be payable as of the date the board of trustees determines that the member is entitled to the disability benefit, however, there is no requirement regarding the lapse of time between the date of disability (or date of application for disability benefits) and the date of board action.

Section 14

Benefits to Beneficiaries: Amends s. 175.201, to permit payment of benefits to beneficiaries if the officer dies with 10 years of service but prior to normal retirement. Excludes benefits under ss. 112.191 and 112.1914 as death or retirement benefits under this Chapter.

Current Law: Under s. 185.21, no death benefit is payable (except possibly pursuant to an annuity or insurance policy which may have been provided pursuant to s. 185.061) to a member who dies prior to retirement unless the member dies after his normal retirement age; the beneficiaries receive only a refund of contributions.

Comment: The bill would establish a death benefit applicable to members who die subsequent to vesting (10 years of service). The benefit would be equal to the early or normal retirement benefit that would otherwise have been payable to the member had he retired on that date. This generally parallels the FRS death benefit provision. The bill would also exclude the Chapter 112 death benefits from the limitations on death benefits set out in Chapter 175.

Section 15

Audit Requirements: Amends s. 175.261(1)(b) to require independent audit by CPA if fund has \$100,000 in assets, and certified statement of accounting if less than \$100,000 in assets. Amends s. 175.261(2) to require triennial rather than quinquennial actuarial reports.

Current Law: Section 175.266(1)(b) requires each board of trustees to file with the Department of Insurance a certified statement of accounting for the most recent fiscal year of the municipality with a listing of assets and the method of valuation used, along with a statement of all income and disbursements during the year. Subsection (2) of that section requires boards of trustees to submit certain data to the Department of Insurance on a quinquennial basis so that the Department may conduct an actuarial evaluation of the fund. Section 112.63 requires that actuarial evaluation of public pension systems be conducted on a triennial basis.

Comment: The change in the frequency of reporting brings the chapter into compliance with s. 112.63.

Section 16

Independent Counsel: Permits board to hire independent counsel, and other technical or professional advisors. Deletes more limited provision that board could only hire outside counsel if city council refused to permit city attorney to represent board. Amends s. 175.291, to delete "or corporate counsel" deletes "thereunto" after whenever.

Section 17

Deposits: Permits board to deposit funds with municipal treasurer and establishes liability standards. Permits deposit of securities in public depositories under s. 280.02(5). Deletes provision for mandatory deposit with city treasurer. See Section 8 above.

Section 18

Independence: Amends s. 175.311, to establish that boards of trustees are both separate from their respective cities, and from other boards of trustees.

Section 19

Normal Retirement Age - Misc.: Prohibits a normal retirement age over 60, rather than over 65. Establishes that service requirement may not exceed 30 years, replacing 35 years. Establishes minimum benefit formula at no less than 2 percent of each year's credited service, multiplied by average final compensation. Limits this requirement to availability of state funds. Previously level set at one-twelfth of 1 percent of total earning during credited service. Establishing requirement for valuation every 3, rather than every 5 years by an enrolled actuary.

Defining "enrolled actuary" by Subtitle C of Title III of ERISA. Requires that proposed change and actuarial impact statement be submitted to DOI prior to last public hearing. Statement must include compliance with s. 14, Art. X and part VII of Chapter

112. Changes DOI annual report requirement to include CPA audit if fund over \$100,000, or certified statement if under \$100,000. Previously had required certified statement. Permits either board of trustees, or official pension committee, with majority approval to place income from s. 175.01 premium tax in existing pension fund.

Sets limits on board membership when only firefighters are members of plan. If police officers are included, two members will be police officers or firefighters elected by majority of police officers and firefighters. When general employees are included in the plan at least one police officer or firefighter must serve. See Section 3, on Board of Trustees.

Section 20

Plan Terminations: Authorizes the DOI to terminate plan if board of trustees does not properly terminate it within 24 months of established data.

Current Law: Section 175.361 specifies the procedure for the liquidation of any Chapter 175 retirement plan which is terminated for any reason. Responsibility for carrying out the procedure is charged to the local board of trustees, and no time limits are specified for completion of the liquidation and distribution of assets.

Comment: The bill would establish a 24-month maximum time limit on the liquidation and distribution of the assets of a terminated Chapter 175 fund. The Department of Insurance would be responsible for completing the procedure should a municipality fail to accomplish the task within the 24-month period.

Section 21

Limits on Credit: (a) Prohibits award of credit in other state retirement plans for time credited under this provision. Requires distribution to member if he joins another plan. (b) Requires plan to terminate if all active members elect to transfer. Funds will be distributed. But if only some members elect to leave, plan will continue until fully funded, then it shall terminate. See Section 20, above.

Current Law: Current law does not specify a method for instituting the termination of a Chapter 185 retirement plan, although a procedure for distribution of assets upon termination is specified.

Comment: HB 625 would create s. 175.361 to require termination of any Chapter 175 plan when every active participant elects to transfer to another state retirement system. If, in such an election, not all members elect to transfer, the Chapter 185 plan would remain in existence until fully funded and would then be terminated.

Section 22

Compliance Date: Requires s. 175.351 plans to comply with these provisions by Dec. 31, 1986 unless funded by legislative act, then October 1, 1987. Act applies to all plans under this chapter.

Section 23

Attorneys Fees: Provides for attorneys fees and costs to prevailing party in litigation under this part.

Current Law: Current law contains no provision related to attorneys' fees in actions brought under Chapter 185.

II. ECONOMIC IMPACT:

A. Public:

Not determinable.

B. Government:

(a) Introduction

Principal funding for Chapter 175 retirement plans comes from three sources: 1) the insurance premium tax; 2) member contributions; and 3) employer contributions. The municipality is responsible for covering any normal costs. Because the municipalities are only liable to the extent of available state funding it should not result in additional fiscal impact.

(b) Administrative Costs

HB 625 will result in indeterminable, but probably significant, administrative costs to municipalities operating Chapter 175 plans which will be required to be revised in accordance with the provisions of the bill. Included in these costs for municipalities operating qualifying local plans will be the expense of having an actuarial evaluation performed to determine the funding changes required to comply with any benefit changes mandated by HB 625.

(c) Constitutionality

In that the existing law (ss. 175.091(4) and 175.351(10)) requires automatic and mandatory funding by the municipality of any plan deficit, HB 625 probably satisfies the actuarial soundness requirements of Article X, Section 14, of the State Constitution and Part VII of Chapter 112, Florida Statutes.

III. STATE COMPREHENSIVE PLAN IMPACT:

None.

IV. COMMENTS:

The bill was reported favorably by the Subcommittee on Retirement on April 29, 1986.

The bill was reported favorably by the Full Committee on April 30, 1986, with one amendment.

V. AMENDMENTS:

The one amendment changed the effective date to October 1, 1986, to match the fiscal year of the municipalities.

VI. PREPARED BY: 
Joseph E. Broadus

VII. STAFF DIRECTOR: 
Durward N. Brewer

Senate Action

House Action

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If amendment is text of another bill insert:
Bill No. Draft No.


The Committee on Retirement, Personnel & Collective
Bargaining offered the following amendment:

Amendment

On page...31... line...8...
strike "July 1, 1986"

and insert: October 1, 1986

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Jones</u>	<u>Jones</u> 	1. <u>PRCB</u>	<u>Fav. as CS</u>
2. _____	_____	2. <u>Ap</u>	<u>Withdrawn</u>
3. _____	_____	3. _____	_____

SUBJECT:

Municipal Firefighters'
Retirement Trust Funds

BILL NO. AND SPONSOR:

CS for SB 207 by Senators
Jenne and Carlucci

I. SUMMARY:

A. Present Situation:

Chapter 175, Florida Statutes, created in 1963, provides a uniform retirement system for the benefit of municipal firefighters.

Local board of trustees are responsible for administering municipal firefighters retirement systems. These boards, as provided by section 175.061 Florida Statutes, consist of the mayor, the fire chief, two firefighters, and a resident of the municipality. The mayor and fire chief serve on the board as long as they are in office and other members serve two year terms. The mayor is statutorily appointed chairman of the board.

Section 175.071(1), Florida Statutes, sets forth the requirements whereby local boards may invest the retirement trust funds under their control.

Section 175.091(2), Florida Statutes, requires a member contribution of 5 percent of the salary of all firefighters participating in a retirement plan and authorizes a 3 percent contribution for members participating in the federal Social Security plan with a resulting decrease in service credit.

Section 175.121, Florida Statutes, authorizes the Department of Insurance to deduct from the premium tax receipts the amount necessary for it to carry out the provisions of chapter 185, Florida Statutes. There is a \$30,000 per year cap on this expense deduction.

Section 175.131, Florida Statutes, requires that funds received by a municipality be deposited immediately into the retirement or pension fund.

Section 175.162, Florida Statutes, provides requirements for retirement of firefighters under chapter 175, Florida Statutes. Normal retirement is age 60 with 10 years of service. The retirement benefit is calculated using a service credit of 2 percent per year. Section 175.091(2), Florida Statutes, provides for a reduced benefit of 1.2 percent per year for a firefighter participating in Social Security. Section 175.162(4), Florida Statutes, sets forth requirements for early retirement under chapter 175, Florida Statutes. The benefit for early retirement is calculated by computing the benefit under the normal retirement method and then actuarially reducing that amount " . . . to take into account the firefighter's younger age and the earlier commencement of retirement income benefits"

Section 175.171, Florida Statutes, provides for optional forms of retirement benefits available under chapter 175, Florida Statutes.

Section 175.191, Florida Statutes, establishes the qualifications and benefits for receiving disability retirement. These provisions include a 10-year vesting period, a benefit determined as an income for 10 years certain and life which can be provided by the "single sum value of the deferred monthly retirement income beginning at the normal retirement date which has accrued to his date of disability". This sum is based on a 2 percent service credit for those members contributing 5 percent of salary and on a 1.2 percent service credit for those covered by Social Security contributing 3 percent of salary. There is also a waiting period of at least 3 months after the date the disability has occurred to receive benefits.

Section 175.201, Florida Statutes, provides for a 100 percent, without interest, refund of contributions to the retirement fund should a firefighter die before being eligible to retire. However, no death benefit is payable to a member who dies prior to retirement unless the member dies after his normal retirement age, with the possible exception that an annuity or life insurance policy has been purchased for the firefighter pursuant to section 175.081, Florida Statutes.

Section 175.261(1)(b), Florida Statutes, requires each board of trustees to file a report with the Department of Insurance for the most recent fiscal year of the municipality listing the assets and the method of valuation used, along with a statement of all income and disbursements during the year. Subsection (2) of that section requires boards of trustees to submit certain information to the department so the department may conduct an actuarial valuation of the fund.

Section 175.291, Florida Statutes, provides for the city attorney to represent the board of trustees and the retirement fund. A board of trustees may employ independent legal counsel only if the city attorney fails or refuses to comply with the board's request for representation.

Section 175.301, Florida Statutes, requires that the funds and securities of municipal firefighters retirement trust funds be deposited with the municipal treasurer for safekeeping in a segregated fund.

Section 175.311, Florida Statutes, provides that each municipality and its respective board of trustees shall be independent of other municipalities and their respective boards in regard to the operation of municipal firefighters retirement plans.

Section 175.351, Florida Statutes, allows the use of premium tax funds for qualifying pension plans covering firefighters or firefighters and other employees. If the plan covers more than just firefighters, the chapter 175, Florida Statutes, funds are required to be dedicated solely to firefighter benefits; they may not be used to fund any portion of the costs or benefits attributable to the non-firefighter members of the retirement plan.

Section 175.351(2), Florida Statutes, requires that in order to qualify for funding under section 175.351, Florida Statutes, a plan must have a normal retirement age no higher than age 65.

Section 175.351(3), Florida Statutes, requires that if a plan provides for a stated period of service as a requirement for

receiving benefits, that maximum period shall not exceed 35 years.

Section 175.351(4), Florida Statutes, establishes a minimum standard for retirement plan benefit formulas to require that monthly plan benefits equal at least one-twelfth of 1 percent of the member's total covered earnings.

Section 175.351(9), Florida Statutes, requires actuarial valuations of these retirement plans at least once every 5 years.

Section 175.351(11), Florida Statutes, requires that an actuarial estimate of the costs involved is to be prepared prior to considering any proposed change to a retirement plan. These requirements are similar to those of section 112.63, Florida Statutes, which also specifies a procedure for handling local actuarial evaluations considered inaccurate or incomplete by the Florida Division of Retirement of the Department of Administration.

Section 175.351(12)(b), Florida Statutes, requires each board of trustees to submit to the Department of Insurance an annual report including among other things, a certified statement of accounting for the most recent fiscal year.

Currently, no special provision is made in section 175.351, Florida Statutes, for the composition of local boards of trustees. Such boards are controlled by the provisions of section 175.061, Florida Statutes.

Section 175.361, Florida Statutes, sets forth procedures for the termination of any chapter 175, Florida Statutes, retirement plan and distribution of the assets. The local board of trustees is authorized to carry out the procedure. The law does not provide any time constraints for completion of this process.

B. Effect of Proposed Changes:

This bill substantially revises chapter 175, Florida Statutes. The bill specifically addresses the following:

Amends section 175.021, Florida Statutes, to establish minimum standards for the operation and funding of municipal fire-fighters' retirement trust fund systems and to ensure that such plans are operated in accordance with the provisions of Article X, Section 14, of the Florida Constitution. (Section 1)

Amends section 175.032(2)(a), Florida Statutes, relating to definitions, by changing the calculation for "Average Final Compensation" (AFC) from a firefighters last 10 years of contributing service to an average of the best 5 of the last 10 years and reduces the AFC benefit formula to provide for the calculation of monthly benefits. Also, provides a definition for "enrolled actuary." (Section 2)

Amends s. 176.061, to vest sole responsibility for fund administration in a board of trustees effective October 1, 1986. The boards would consist of five members: two residents of the municipality appointed by the legislative body; two full-time firefighters elected by a majority vote of firefighters under the plan and a fifth member elected by the other four, but appointed "as a ministerial duty" by the legislative body. Each resident member would have a two year term but could be replaced by the body that appointed the member. The proposed change would permit mayors, city managers, etc., to serve on the board. But officials appointed under current law would have their terms terminate as of

September 30, 1986. Firefighters would serve two years unless they left their departments. The boards will elect a chairman from their membership. The trustees are not paid but receive expenses. (Section 3)

Amends section 175.071, Florida Statutes, to delete the authority of the boards to invest in county, municipal, and state bonds and removes the dividend, earnings, and other performance criteria now required of corporations in which boards may invest. The only limitation would be that the corporation must be listed on a national stock exchange and hold a rating in one of the three highest classifications of a major rating service. It also increases the amount of stock which can be purchased from one corporation from 1 percent of assets to 5 percent and total stock investments will be increased from 10 percent to 30 percent. Changes to the investment criteria can be made only through a municipal ordinance or special act of the Legislature and investments in foreign government bonds or stocks is prohibited. Further, the bill prohibits a proposed change to a retirement plan from being adopted without the municipality's approval, and requires the board of trustees to retain an independent consultant once every three years to evaluate the professional money manager's performance, and to make recommendations to be considered by the board at its next regularly scheduled meeting, the date, time, place, and subject of which are to be advertised in a newspaper of general circulation in the municipality at least 10 days before the hearing. (Section 4)

Amends section 175.091, Florida Statutes, to delete the reference to "license" tax throughout chapter 175, Florida Statutes, and provides that a member's contribution cannot be reduced to less than 1 percent of salary. (Section 5)

Deletes the reference to license tax. (Section 6)

Requires the Department of Insurance to budget for the amount of expenses required to collect and distribute the "one-percent" tax and deletes the \$30,000 cap on the appropriation. (Section 7)

Amends section 175.131, Florida Statutes, to require municipalities to deposit "state and other" funds into the trust within 5 days. Member contributions withheld from salary would be required to be deposited at least monthly. (Section 8)

Provides for the payment of excise rather than municipal tax credit on similar excise or license taxes. (Section 9)

Creates section 175.152, Florida Statutes, to prohibit the board of trustees from reducing member contributions to less than 1 percent of salary. (Section 10)

Amends section 175.162, Florida Statutes, to lower the requirements for normal retirement from age 60 and 10 years of service to age 55 with 10 years of service or age 52 with 25 years of service. The bill deletes the language in section 175.162(2)(a), Florida Statutes, regarding the 1.2 percent service credit for employees making 3 percent contributions and would cap the actuarial reduction for early retirement at 3 percent for each year by which the member's age at retirement preceded the member's normal retirement age. However, if current state contributions pursuant to Chapter 175 are not adequate to fund the additional benefit to meet the minimum two percent requirement, only such incremental increases shall be required as state moneys are adequate to provide. Such increments shall be provided until such time as state moneys are available to fund the minimum two percent benefit. (Section 11)

Amends section 175.171, Florida Statutes, to provide that no change in retirement option can be made by a firefighter after the date of cashing or depositing the first retirement check. (Section 12)

Amends section 175.191, Florida Statutes, to prohibit disability retirement, except in the line of duty, if the member has reached early or normal retirement age and deletes the 3-month waiting period before benefits can be paid. The bill also creates a minimum benefit of 42 percent of AFC for in-the-line-of-duty disability and 25 percent of AFC for regular disability after 5 years of service. (Section 13)

Amends section 175.201, Florida Statutes, to provide that any firefighter who dies prior to retirement after vesting (10 or more years of service) shall have his beneficiaries paid the benefits otherwise payable at early or normal retirement age. Benefits paid under sections 112.19 and 112.1914, Florida Statutes, would be excluded from the limitations on death benefits. (Section 14)

Amends section 175.261(1)(b), Florida Statutes, to require an independent audit by a certified public accountant if the trust fund has over \$100,000 in assets or a certified statement of accounting if the fund has less than \$100,000 in assets. Actuarial valuations are required on a triennial, rather than quinquennial, basis. (Section 15)

Amends section 175.291, Florida Statutes, to authorize the board of trustees to hire its own attorney and consultants and specifies that section 175.291, F.S., shall specifically apply to all funds receiving state monies pursuant to this chapter. (Section 16)

Amends section 175.301, Florida Statutes, to allow the board of trustees to place trust funds in a qualified public depositor as defined in section 280.02, Florida Statutes, as an alternative to deposit with the municipal treasurer. (Section 17)

Amends section 175.311, Florida Statutes, to provide that each board of trustees shall be independent of each municipality for which it serves as board of trustees. (Section 18)

Amends section 175.351, Florida Statutes, to decrease the normal retirement age to 60 and the optional minimum number of years of service to no higher than 30; to establish a new minimum benefit formula which requires a monthly benefit of at least 2 percent for each year of creditable service times AFC and providing that if state contributions are not adequate to fund the additional benefit to meet minimum requirements, only increment increases are required as available state monies are adequate to provide. To change the time frame for actuarial valuations from every 5 years to at least every 3 years and to provide the valuations must be done by an enrolled actuary as defined in the bill. Prohibits the provisions of the retirement plan from being amended by the board of trustees without the municipality's approval and requires copies of the proposed change and the actuarial impact statement be provided to the Department of Insurance prior to the last public hearing thereon and an independent audit by a certified public accountant if the fund has over \$100,000 in assets, or a certified statement of accounting if the fund has less than \$100,000 in assets. Section 175.351, Florida Statutes, is further amended to provide requirements for election of members of the board of trustees where a joint fund for police officers and firefighters exists. (Section 19)

Authorizes the Department of Insurance to carry out the liquidation procedure for any chapter 175, Florida Statutes,

retirement plan should the municipality or board of trustees fail to do so after a period of 24 months after the date on which the plan terminated or the date on which the board received written notice that contributions were being discontinued. (Section 20)

Creates section 175.371(1), Florida Statutes, to provide that any firefighter who has a vested right to benefits under a chapter 175 pension plan, and who elects to participate in another state retirement system may not receive a benefit under the provisions of the latter retirement system for any year's service in which benefits are paid under any chapter 175 plan. Section 175.371(2), Florida Statutes, provides that when every active participant in a chapter 175 plan elects to transfer to another state retirement system, the chapter 175 plan shall be terminated and assets distributed in accordance with section 175.361, Florida Statutes, and if some participants in a chapter 175 plan elect to transfer to another state retirement system and others elect to remain in the plan, the chapter 175 plan shall remain in effect until fully funded and shall then be terminated in accordance with section 175.361, Florida Statutes. (Section 21)

Creates section 175.381, Florida Statutes, which provides that existing plans under chapter 175, Florida Statutes, have until December 31, 1986 to comply with this act and those plans established by Legislative Act have until October 1, 1987 to comply. (Section 22)

Creates section 175.391, Florida Statutes, to provide for costs and attorney's fees to the prevailing party in any judicial or administrative action brought under chapter 175, Florida Statutes. (Section 23)

Provides an effective date. (Section 24)

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

This bill amends chapter 175, Florida Statutes, in a manner such that the retirement benefits for firefighters are similar to those of special risk members of the Florida Retirement System. This would appear to result in increased benefits for firefighters under chapter 175, Florida Statutes, retirement plans in cases where the benefits of such plans do not now meet or exceed those provided in this bill.

Any increased costs to municipalities are assumed to ultimately be passed on to municipal tax payers.

B. Government:

1. Introduction

Principal funding for Chapter 175 retirement plans comes from three sources: 1) the insurance premium tax; 2) member contributions; and 3) employer contributions. The municipality is responsible for covering any normal costs and unfunded liability not funded by the other two sources. Sections 185.07(4) and 175.091(4) mandate this municipal contribution and require amortization of any unfunded liability on a 40-year basis. The amount of the employer's liability and contributions are determined pursuant to the periodic actuarial evaluation of the fund conducted by the Department of Insurance pursuant to s. 175.261(2) or, for qualifying local plans, by the municipality pursuant to s. 175.351(9).

2. Plan Funding - "Chapter" Plans

Those municipalities whose plans are structured in accordance with the provisions of Chapter 175 will be notified by the Department of Insurance of any necessary employer contribution increases to fund the new minimum benefit provisions established by the bill .

Not all Chapter 175 funds will be impacted to the same degree by the bill since the provisions of Chapter 175 have been construed as establishing minimum standards for the pension plans. Thus, some plans are probably already in compliance with the new minimum benefit provisions. The actual impact on an individual municipality will be determined by the degree of plan benefit changes necessitated by the bill and by the individual municipality's actuarial experience with respect to investment performance, payroll and salary growth, withdrawal rates, and all the other factors which determine a retirement system's benefit experience and funding requirements.

However, if current state contributions pursuant to Chapter 175 are not adequate to fund the additional benefit to meet the minimum two percent requirement, only such incremental increases shall be required as state moneys are adequate to provide. Such increments shall be provided until such time as state moneys are available to fund the minimum two percent benefit.

3. Plan Funding - Qualifying Local Plans

The 108 municipalities which operate qualifying local plans under s. 175.351 will be required to provide at least two percent for each year of the firefighter's credited service, multiplied by his average final compensation. However, if current state contributions pursuant to Chapter 175 are not adequate to fund the additional benefit to meet the minimum two percent requirement, only such incremental increases shall be required as state moneys are adequate to provide. Such increments shall be provided until such time as state moneys are available to fund the minimum two percent benefit.

Due to the diversity of structure, benefits, and actuarial experience of the qualifying local plans, it is impossible to predict at this time the extent of the fiscal impact imposed by the bill on the municipalities operating these plans.

4. Administrative Costs

The bill will result in indeterminable, but probably significant, administrative costs to municipalities operating Chapter 175 plans which will be required to be revised in accordance with the provisions of the bill. Included in these costs for municipalities operating qualifying local plans will be the expense of having an actuarial evaluation performed to determine the funding changes required to comply with any benefit changes mandated by the bill.

III. COMMENTS: None

IV. AMENDMENTS: None