

1 A bill to be entitled
 2 An act relating to retirement; amending ss. 175.061
 3 and 185.05, F.S.; providing applicability; revising
 4 membership and requirements for the board of trustees
 5 of the firefighters' pension trust fund and the
 6 municipal police officers' retirement trust fund;
 7 providing duties of the board relating to the
 8 reporting of expenses, the operation under an
 9 administrative expense budget, and the establishment
 10 of requirements for the plan administrator; amending
 11 ss. 175.351 and 185.35, F.S., relating to
 12 municipalities and special fire control districts that
 13 have their own pension plans and want to participate
 14 in the distribution of a tax fund; providing
 15 requirements for municipalities with plans with an
 16 unfunded liability; providing applicability; providing
 17 a declaration of important state interest; providing
 18 an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 175.061, Florida Statutes, is amended
 23 to read:

24 175.061 Board of trustees; members; terms of office;
 25 meetings; legal entity; costs; attorney's fees.—For any
 26 municipality, special fire control district, chapter plan, local

27 law municipality, local law special fire control district, ~~or~~
28 local law plan under this chapter, or local law plan created by
29 special act before May 27, 1939:

30 (1) In each municipality and in each special fire control
31 district there is hereby created a board of trustees of the
32 firefighters' pension trust fund, which shall be solely
33 responsible for administering the trust fund. Effective October
34 1, 1986, and thereafter:

35 (a) The membership of the board of trustees for a chapter
36 plan consists of five members, three ~~two~~ of whom, unless
37 otherwise prohibited by law, must be legal residents of the
38 municipality or special fire control district, ~~and~~ must be
39 appointed by the governing body of the municipality or special
40 fire control district, and must not be a member, retiree,
41 beneficiary or payee of the pension plan, and two of whom must
42 be full-time firefighters as defined in s. 175.032 who are
43 elected by a majority of the active firefighters who are members
44 of such plan. With respect to any chapter plan or local law plan
45 that, on January 1, 1997, allowed retired firefighters to vote
46 in such elections, retirees may continue to vote in such
47 elections. ~~The fifth member shall be chosen by a majority of the~~
48 ~~previous four members as provided herein, and such person's name~~
49 ~~shall be submitted to the governing body of the municipality or~~
50 ~~special fire control district. Upon receipt of the fifth~~
51 ~~person's name, the governing body of the municipality or special~~
52 ~~fire control district shall, as a ministerial duty, appoint such~~

53 ~~person to the board of trustees. The fifth member shall have the~~
54 ~~same rights as each of the other four members, shall serve as~~
55 ~~trustee for a period of 2 years, and may succeed himself or~~
56 ~~herself in office.~~ Each resident member shall serve as trustee
57 for a period of 2 years, unless sooner replaced by the governing
58 body at whose pleasure he or she serves, and may succeed himself
59 or herself as a trustee. Each firefighter member shall serve as
60 trustee for a period of 2 years, unless he or she sooner leaves
61 the employment of the municipality or special fire control
62 district as a firefighter, whereupon a successor shall be chosen
63 in the same manner as an original appointment. Each firefighter
64 may succeed himself or herself in office. The terms of office of
65 the appointed and elected members may be amended by municipal
66 ordinance, special act of the Legislature, or resolution adopted
67 by the governing body of the special fire control district to
68 extend the terms from 2 years to 4 years. The length of the
69 terms of office shall be the same for all board members, and a
70 board member may not serve on the board for more than 8
71 consecutive years.

72 (b) The membership of boards of trustees for local law
73 plans shall be as follows:

74 1. If a municipality or special fire control district has
75 a pension plan for firefighters only, the provisions of
76 paragraph (a) apply.

77 2. If a municipality has a pension plan for firefighters
78 and police officers, the provisions of paragraph (a) apply,

79 | except that the board of trustees shall consist of nine members,
80 | five of whom shall be appointed by the governing body of the
81 | municipality or special fire control district, two of whom ~~one~~
82 | ~~member of the board~~ must be firefighters, ~~a firefighter~~ and two
83 | of whom ~~one member of the board~~ must be a police officers
84 | ~~officer~~ as defined in s. 185.02, respectively elected by a
85 | majority of the active firefighters or police officers who are
86 | members of the plan.

87 | 3. A board of trustees operating a local law plan on July
88 | 1, 1999, which is combined with a plan for general employees
89 | shall hold an election of the firefighters, or firefighters and
90 | police officers, if included, to determine whether a plan is to
91 | be established for firefighters only, or for firefighters and
92 | police officers where included. Based on the election results, a
93 | new board shall be established as provided in subparagraph 1. or
94 | subparagraph 2., as appropriate. The municipality or fire
95 | control district shall enact an ordinance or resolution to
96 | implement the new board by October 1, 1999. The newly
97 | established board shall take whatever action is necessary to
98 | determine the amount of assets attributable to firefighters, or
99 | firefighters and police officers where included. Such assets
100 | include all employer, employee, and state contributions made by
101 | or on behalf of firefighters, or firefighters and police
102 | officers where included, and any investment income derived from
103 | such contributions. All such moneys shall be transferred into
104 | the newly established retirement plan, as directed by the board.

105
106 ~~With respect to a board of trustees operating a local law plan~~
107 ~~on June 30, 1986, this paragraph does not permit the reduction~~
108 ~~of the membership percentage of firefighters, or of firefighters~~
109 ~~and police officers where a joint or mixed fund exists. However,~~
110 ~~for the sole purpose of changing municipal representation, a~~
111 ~~municipality may by ordinance change the municipal~~
112 ~~representation on the board of trustees operating a local law~~
113 ~~plan by ordinance, only if such change does not reduce the~~
114 ~~membership percentage of firefighters, or firefighters and~~
115 ~~police officers, or the membership percentage of the municipal~~
116 ~~representation.~~

117 (c) Whenever the active firefighter membership of a closed
118 chapter plan or closed local law plan as provided in s. 175.371
119 falls below 10, an active firefighter member seat may be held by
120 either a retired member or an active firefighter member of the
121 plan who is elected by the active and retired members of the
122 plan. If there are no active or retired firefighters remaining
123 in the plan or capable of serving, the remaining board members
124 may elect an individual to serve in the active firefighter seat.
125 Upon receipt of such person's name, the legislative body of the
126 municipality or special fire control district shall, as a
127 ministerial duty, appoint such person to the board of trustees.
128 This paragraph applies only to those plans that are closed to
129 new members under s. 175.371(2), and does not apply to any other
130 municipality or fire control district having a chapter or local

131 law plan.

132 (2) The trustees shall by a majority vote elect from their
133 number a chair and a secretary. The secretary of the board shall
134 keep a complete minute book of the actions, proceedings, or
135 hearings of the board. The trustees shall not receive any
136 compensation as such, but may receive expenses and per diem as
137 provided by Florida law.

138 (3) The board of trustees shall meet at least quarterly
139 each year.

140 (4) Each board of trustees shall be a legal entity with,
141 in addition to other powers and responsibilities contained
142 herein, the power to bring and defend lawsuits of every kind,
143 nature, and description.

144 (5) In any judicial proceeding or administrative
145 proceeding under chapter 120 brought under or pursuant to the
146 provisions of this chapter, the prevailing party shall be
147 entitled to recover the costs thereof, together with reasonable
148 attorney's fees.

149 (6) The provisions of this section may not be altered by a
150 participating municipality or special fire control district
151 operating a chapter plan or local law plan under this chapter.

152 (7) The board of trustees may, upon written request of the
153 retiree of the plan, or by a dependent, if authorized by the
154 retiree or the retiree's beneficiary, authorize the plan
155 administrator to withhold from the monthly retirement payment
156 funds that are necessary to pay for the benefits being received

157 through the governmental entity from which the employee retired,
158 to pay the certified bargaining agent of the governmental
159 entity, and to make any payments for child support or alimony.
160 Upon the written request of the retiree of the plan, the board
161 may also authorize the plan administrator to withhold from the
162 retirement payment those funds necessary to pay for premiums for
163 accident, health, and long-term care insurance for the retiree
164 and the retiree's spouse and dependents. A retirement plan does
165 not incur liability for participation in this permissive program
166 if its actions are taken in good faith.

167 (8) The board of trustees shall:

168 (a) Provide a detailed accounting report of its expenses
169 for each fiscal year to the plan sponsor and the Department of
170 Management Services and make the report available to each member
171 of the plan. The report must include, but need not be limited
172 to, all administrative expenses that, for purposes of this
173 subsection, are expenses relating to any legal counsel, actuary,
174 plan administrator, and all other consultants, and all travel
175 and other expenses paid to or on behalf of the members of the
176 board of trustees or anyone else on behalf of the plan.

177 (b) Operate under an administrative expense budget for
178 each fiscal year, provide a copy of the budget to the plan
179 sponsor, and make available a copy of the budget to plan members
180 before the beginning of the fiscal year. The administrative
181 expense budget must regulate the administrative expenses of the
182 board of trustees. If the board of trustees amends the

183 administrative expense budget, the board must provide a copy of
184 the amended budget to the plan sponsor and make available a copy
185 of the amended budget to plan members before the amendment takes
186 effect. The administrative expense budget, including any budget
187 amendment, is not effective until the budget or budget amendment
188 is approved by a majority vote of the plan sponsor.

189 (c) Establish qualifications for the plan administrator.
190 At a minimum, the qualifications shall require that the
191 individual have a bachelor's degree from an accredited college
192 or university with a major in finance or be a licensed certified
193 public accountant, have at least 3 years of professional
194 experience managing retirement plans in the private or public
195 sector, and be approved by a majority plus one vote of the plan
196 sponsor.

197 (9) Notwithstanding s. 175.351(2) and (3), a local law
198 plan created by special act before May 27, 1939, must comply
199 with this section.

200 Section 2. Subsection (6) is added to section 175.351,
201 Florida Statutes, to read:

202 175.351 Municipalities and special fire control districts
203 having their own pension plans for firefighters.—For any
204 municipality, special fire control district, local law
205 municipality, local law special fire control district, or local
206 law plan under this chapter, in order for municipalities and
207 special fire control districts with their own pension plans for
208 firefighters, or for firefighters and police officers if

209 included, to participate in the distribution of the tax fund
 210 established pursuant to s. 175.101, local law plans must meet
 211 the minimum benefits and minimum standards set forth in this
 212 chapter.

213 (6) (a) A municipality having its own pension plan that has
 214 an assets-to-liabilities ratio, using the most recent plan
 215 actuarial report, of 75 percent or less, shall, every 3 years,
 216 conduct an internal audit of the plan's management and
 217 accounting practices and investments. The audit shall be paid
 218 for by the board of trustees of the pension trust fund. The
 219 results of the audit shall be provided to the municipality and
 220 the Department of Management Services.

221 (b) Notwithstanding subsections (2) and (3), a local law
 222 plan created by special act before May 27, 1939, must comply
 223 with this subsection.

224 Section 3. Section 185.05, Florida Statutes, is amended to
 225 read:

226 185.05 Board of trustees; members; terms of office;
 227 meetings; legal entity; costs; attorney's fees.—For any
 228 municipality, chapter plan, local law municipality, ~~or~~ local law
 229 plan under this chapter, or a local law plan created by special
 230 act before May 27, 1939:

231 (1) In each municipality described in s. 185.03 there is
 232 hereby created a board of trustees of the municipal police
 233 officers' retirement trust fund, which shall be solely
 234 responsible for administering the trust fund. Effective October

235 1, 1986, and thereafter:

236 (a) The membership of the board of trustees for chapter
237 plans consists of five members, three ~~two~~ of whom, unless
238 otherwise prohibited by law, must be legal residents of the
239 municipality and must be appointed by the legislative body of
240 the municipality and must not be a member, retiree, beneficiary
241 or payee of such plan, and two of whom must be police officers
242 as defined in s. 185.02 who are elected by a majority of the
243 active police officers who are members of such plan. With
244 respect to any chapter plan or local law plan that, on January
245 1, 1997, allowed retired police officers to vote in such
246 elections, retirees may continue to vote in such elections. ~~The~~
247 ~~fifth member shall be chosen by a majority of the previous four~~
248 ~~members, and such person's name shall be submitted to the~~
249 ~~legislative body of the municipality. Upon receipt of the fifth~~
250 ~~person's name, the legislative body shall, as a ministerial~~
251 ~~duty, appoint such person to the board of trustees. The fifth~~
252 ~~member shall have the same rights as each of the other four~~
253 ~~members appointed or elected, shall serve as trustee for a~~
254 ~~period of 2 years, and may succeed himself or herself in office.~~
255 Each resident member shall serve as trustee for a period of 2
256 years, unless sooner replaced by the legislative body at whose
257 pleasure the member serves, and may succeed himself or herself
258 as a trustee. Each police officer member shall serve as trustee
259 for a period of 2 years, unless he or she sooner leaves the
260 employment of the municipality as a police officer, whereupon a

261 successor shall be chosen in the same manner as an original
 262 appointment. Each police officer may succeed himself or herself
 263 in office. The terms of office of the appointed and elected
 264 members of the board of trustees may be amended by municipal
 265 ordinance or special act of the Legislature to extend the terms
 266 from 2 years to 4 years. The length of the terms of office shall
 267 be the same for all board members, and a board member may not
 268 serve on the board for more than 8 consecutive years.

269 (b) The membership of boards of trustees for local law
 270 plans is as follows:

271 1. If a municipality has a pension plan for police
 272 officers only, the provisions of paragraph (a) shall apply.

273 2. If a municipality has a pension plan for police
 274 officers and firefighters, the provisions of paragraph (a)
 275 apply, except that the board of trustees shall consist of nine
 276 members, five of whom shall be appointed by the governing body
 277 of the municipality, two of whom ~~one member of the board~~ shall
 278 be police officers, a ~~police officer~~ and two of whom ~~one member~~
 279 shall be firefighters a ~~firefighter~~ as defined in s. 175.032,
 280 respectively, elected by a majority of the active firefighters
 281 and police officers who are members of the plan.

282 3. Any board of trustees operating a local law plan on
 283 July 1, 1999, which is combined with a plan for general
 284 employees shall hold an election of the police officers, or
 285 police officers and firefighters if included, to determine
 286 whether a plan is to be established for police officers only, or

287 for police officers and firefighters where included. Based on
288 the election results, a new board shall be established as
289 provided in subparagraph 1. or subparagraph 2., as appropriate.
290 The municipality shall enact an ordinance to implement the new
291 board by October 1, 1999. The newly established board shall take
292 whatever action is necessary to determine the amount of assets
293 which is attributable to police officers, or police officers and
294 firefighters where included. Such assets shall include all
295 employer, employee, and state contributions made by or on behalf
296 of police officers, or police officers and firefighters where
297 included, and any investment income derived from such
298 contributions. All such moneys shall be transferred into the
299 newly established retirement plan, as directed by the board.

300

~~301 With respect to any board of trustees operating a local law plan
302 on June 30, 1986, this paragraph does not permit the reduction
303 of the membership percentage of police officers or police
304 officers and firefighters. However, for the sole purpose of
305 changing municipal representation, a municipality may by
306 ordinance change the municipal representation on the board of
307 trustees operating a local law plan by ordinance, only if such
308 change does not reduce the membership percentage of police
309 officers, or police officers and firefighters, or the membership
310 percentage of the municipal representation.~~

311 (c) Whenever the active police officer membership of a
312 closed chapter plan or closed local law plan as provided in s.

313 185.38 falls below 10, an active police officer member seat may
314 be held by either a retired police officer or an active police
315 officer member of the plan who is elected by the active and
316 retired members of the plan. If there are no active or retired
317 police officers remaining in the plan or capable of serving, the
318 remaining board members may elect an individual to serve in the
319 active police officer member seat. Upon receipt of such person's
320 name, the legislative body of the municipality shall, as a
321 ministerial duty, appoint such person to the board of trustees.
322 This paragraph applies only to those plans that are closed to
323 new members under s. 185.38(2), and does not apply to any other
324 municipality having a chapter or local law plan.

325 (d) If the chapter plan or local law plan with an active
326 membership of 10 or more is closed to new members, the member
327 seats may be held by either a retiree, as defined in s. 185.02,
328 or an active police officer of the plan who has been elected by
329 the active police officers. A closed plan means a plan that is
330 closed to new members but continues to operate, pursuant to s.
331 185.38(2), for participants who elect to remain in the existing
332 plan. This paragraph applies only to those plans that are closed
333 to new members pursuant to s. 185.38(2) and does not apply to
334 any other municipality that has a chapter plan or a local law
335 plan.

336 (2) The trustees shall by majority vote elect from its
337 members a chair and a secretary. The secretary of the board
338 shall keep a complete minute book of the actions, proceedings,

339 or hearings of the board. The trustees shall not receive any
340 compensation as such, but may receive expenses and per diem as
341 provided by Florida law.

342 (3) The board of trustees shall meet at least quarterly
343 each year.

344 (4) Each board of trustees shall be a legal entity that
345 shall have, in addition to other powers and responsibilities
346 contained herein, the power to bring and defend lawsuits of
347 every kind, nature, and description.

348 (5) In any judicial proceeding or administrative
349 proceeding under chapter 120 brought under or pursuant to the
350 provisions of this chapter, the prevailing party shall be
351 entitled to recover the costs thereof, together with reasonable
352 attorney's fees.

353 (6) The board of trustees may, upon written request by the
354 retiree of the plan, or by a dependent, if authorized by the
355 retiree or the retiree's beneficiary, authorize the plan
356 administrator to withhold from the monthly retirement payment
357 funds necessary to pay for the benefits being received through
358 the governmental entity from which the employee retired, to pay
359 the certified bargaining agent of the governmental entity, and
360 to make any payments for child support or alimony. Upon the
361 written request of the retiree of the plan, the board of
362 trustees may also authorize the plan administrator to withhold
363 from the retirement payment those funds necessary to pay for
364 premiums for accident, health, and long-term care insurance for

365 the retiree and the retiree's spouse and dependents. A
366 retirement plan does not incur liability for participation in
367 this permissive program if its actions are taken in good faith.

368 (7) The provisions of this section may not be altered by a
369 participating municipality operating a chapter or local law plan
370 under this chapter.

371 (8) The board of trustees shall:

372 (a) Provide a detailed accounting report of its expenses
373 for each fiscal year to the plan sponsor and the Department of
374 Management Services and make the report available to each member
375 of the plan. The report must include, but need not be limited
376 to, all administrative expenses that, for purposes of this
377 subsection, are expenses relating to any legal counsel, actuary,
378 plan administrator, and all other consultants, and all travel
379 and other expenses paid to or on behalf of the members of the
380 board of trustees or anyone else on behalf of the plan.

381 (b) Operate under an administrative expense budget for
382 each fiscal year, provide a copy of the budget to the plan
383 sponsor, and make available a copy of the budget to plan members
384 before the beginning of the fiscal year. The administrative
385 expense budget must regulate the administrative expenses of the
386 board of trustees. If the board of trustees amends the
387 administrative expense budget, the board must provide a copy of
388 the amended budget to the plan sponsor and make available a copy
389 of the amended budget to plan members before the amendment takes
390 effect. The administrative expense budget, including any budget

391 amendment, is not effective until the budget or budget amendment
392 is approved by a majority vote of the plan sponsor.

393 (c) Establish qualifications for the plan administrator.
394 At a minimum, the qualifications shall require that the
395 individual have a bachelor's degree from an accredited college
396 or university with a major in finance or be a licensed certified
397 public accountant, have at least 3 years of professional
398 experience managing retirement plans in the private or public
399 sector, and be approved by a majority plus one vote of the plan
400 sponsor.

401 (9) Notwithstanding s. 185.35(2) and (3), a local law plan
402 created by special act before May 27, 1939, must comply with
403 this section.

404 Section 4. Subsection (6) is added to section 185.35,
405 Florida Statutes, to read:

406 185.35 Municipalities having their own pension plans for
407 police officers.—For any municipality, chapter plan, local law
408 municipality, or local law plan under this chapter, in order for
409 municipalities with their own pension plans for police officers,
410 or for police officers and firefighters if included, to
411 participate in the distribution of the tax fund established
412 pursuant to s. 185.08, local law plans must meet the minimum
413 benefits and minimum standards set forth in this chapter:

414 (6) (a) A municipality having its own pension plan that has
415 an assets-to-liabilities ratio, using the most recent plan
416 actuarial report, of 75 percent or less, shall, every 3 years,

417 conduct an internal audit of the plan's management and
418 accounting practices and investments. The audit shall be paid
419 for by the board of trustees of the pension trust fund. The
420 results of the audit shall be provided to the municipality and
421 the Department of Management Services.

422 (b) Notwithstanding subsections (2) and (3), a local law
423 plan created by special act before May 27, 1939, must comply
424 with this section.

425 Section 5. The Legislature finds that a proper and
426 legitimate state purpose is served when employees and retirees
427 of the state and its political subdivisions, and the dependents,
428 survivors, and beneficiaries of such employees and retirees, are
429 extended the basic protections afforded by governmental
430 retirement systems that provide fair and adequate benefits and
431 that are managed, administered, and funded in an actuarially
432 sound manner as required by s. 14, Article X of the State
433 Constitution and part VII of chapter 112, Florida Statutes.
434 Therefore, the Legislature determines and declares that this act
435 fulfills an important state interest.

436 Section 6. This act shall take effect July 1, 2015.