



REPLY TO: TALLAHASSEE

MEMORANDUM

TO: Local Government Clients

FROM: Jim Linn and Glenn E. Thomas

DATE: March 31, 2015

RE: 2015 Retirement Legislation - Update

As the 2015 legislative session nears the midpoint, here is an update on the retirement legislation filed thus far. SB 172 (police & fire pension plans) has cleared all committees in the Senate and is now ready to be taken up by the full Senate. Also, an FRS rate bill has emerged in both chambers (see page 6). Copies of any bill can be obtained via the Internet, by accessing the Legislature's website at www.leg.state.fl.us. Please feel free to contact us if you have any questions.

Death Benefits – HB 39 (by Rep. Hill) / CS/CS/SB 136 (by Senator Hays)

These bills revise the death benefits payable to law enforcement officers and firefighters who are killed in the line of duty or otherwise killed by reason of their employment. The bills provide a monthly benefit to the qualifying survivor in an amount equal to the member's monthly salary at the date of death, payable for the lifetime of the surviving spouse. HB 39 would apply only to FRS members and has been referred to the Government Operations Subcommittee, the Appropriations Committee and the State Affairs Committee, but not placed on a committee agenda. CS/SB 136 was reported favorably by the Government Oversight and Accountability Committee and Community Affairs Committee. Under the committee substitute, the death benefit provisions of SB 136 would apply to local police and firefighter pension plans as well as FRS. CS/CS/SB 136 is now in the Senate Appropriations Committee.

Firefighter Pension Plans – HB 105 (by Rep. Eagle) / SB 216 (by Senator Bradley)

These bills would allow municipal service taxing units in unincorporated areas where a city provides fire services, to participate in the premium tax funding program under Chapter 175,

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Florida Statutes. HB 105 has been reported favorably by Government Operations Subcommittee and Local Government Affairs Subcommittee. It is on the March 31 Finance & Tax Committee agenda and has been referred to the State Affairs Committee. SB 216 was reported favorably by the Community Affairs and Government Oversight and Accountability Committees and is now in Appropriations.

Police and Firefighter Pension Plans – SB 1160 (By Sen. Richter)

This bill would amend requirements under Chapters 175 and 185, Florida Statutes for the use of premium tax revenues. SB 1160 would permit the plan sponsor to use premium tax revenues to provide benefits under either a defined benefit plan or a defined contribution plan. The use of premium tax revenues, however, would be subject to the collective bargaining process, if applicable. SB 1160 has no House companion (although see HB 1279). It has been referred to the Government Oversight and Accountability Committee, Community Affairs Committee and the Fiscal Policy Committee.

Police and Firefighter Pension Plans – SB 172 (By Senators Ring and Bradley) / HB 341 (by Rep. Cummings)

These bills are basically the same as 2014 SB 246, which passed both the Senate and House in different forms, but ultimately did not pass the legislature. Cities and police and fire unions reached agreement on the legislation last year, but cities are opposing the bill this year.

The bills amend Chapters 175 and 185, Florida Statutes – the laws governing most local police and firefighter pension plans. The bills contain new rules for allocating premium tax revenues that provide some of the funding for these plans, as well as an option for deviation from the rules by mutual consent of the city/special district and the union representing the affected employees (or a majority of plan members if there is no union). In addition, the bills contain a grandfather clause for those cities and districts that have implemented pension changes in reliance on the “Naples Letter” interpretation of Chapters 175 and 185.

General Rules – Under SB 172/HB 341, the general rules for the use of premium tax revenues would be as follows:

- Base premium tax revenues (the amount received for calendar year 1997) must be used to fund minimum benefits (same as current minimums except the minimum multiplier is increased from 2.0% to 2.75%) or benefits in excess of the minimums.
- Premium tax revenues above the 1997 amount up to the amount received for calendar year 2012 (distributed in 2013) must be used to fund benefits in excess of the minimum benefits.
- Premium tax revenues above the 2012 amount: 50% must be used to fund minimum benefits or benefits in excess of the minimums as determined by the city or special district;

and 50% must be placed in a defined contribution plan to fund “special benefits” (defined as benefits provided through a defined contribution plan).

- Any accumulations of premium tax revenues that have not been applied to fund benefits in excess of the minimum benefits may be allocated by mutual consent of the city/special district and the union representing the affected employees (or a majority of plan members if there is no union). If mutual consent is not reached, 50% of the accumulated premium tax revenues must be used to fund special benefits, and 50% must be applied to reduce the unfunded actuarial liabilities of the plan.
- For pension plans created after March 1, 2015, 50% of the premium tax revenues must be used to fund defined benefits, and 50% must be used to fund defined contribution plan benefits.

Benefit Reduction – The legislation also provides that benefits in excess of the minimum benefits (excluding any supplemental plan benefits in effect on September 30, 2014) may be reduced as long as the plan continues to meet the minimum benefits and standards in Chapters 175 and 185. However, if benefits were reduced the amount of premium tax revenues that were previously used to fund the benefits in excess of the minimums before the reduction must be used as follows: 50% to fund minimum benefits or benefits in excess of the minimums as determined by the city or special district; and 50% must be placed in a defined contribution plan. However, no benefits could be reduced if the plan did not meet the new 2.75% minimum multiplier.

Deviation from General Rules – The legislation provides that the general rules for the use of premium tax revenues could be modified by mutual consent of the city/special district and the union representing the affected employees (or a majority of plan members if there is no union), as long as the plan continued to meet the minimum benefits and standards of Chapters 175 and 185. If a plan did not meet the minimum benefits as of October 1, 2013, the plan could maintain the same benefit level and continue to receive premium tax revenues.

Grandfather Clause – The legislation provided that a city or special district that implemented or proposed changes to a local law pension plan based on the Division of Retirement’s interpretation (i.e., the Naples Letter) of Chapters 175 and 185 on or after August 14, 2012 and before March 3, 2015, could continue such changes in effect until the earlier of October 1, 2018 or the effective date of a collective bargaining agreement that modified the changes. The city or special district’s reliance on the Division of Retirement’s interpretation would have had to be evidenced by a letter from the Division, or a collective bargaining agreement or proposal dated before March 3, 2015.

SB 172 has been reported favorably by the Government Oversight and Accountability, Community Affairs and Fiscal Policy Committees and has been placed on the Senate Calendar. HB 341 was reported favorably as a Committee Substitute (CS) by the House Government Operations Subcommittee on March 11, 2015 (see below), and is now in the House State Affairs Committee.

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CS/HB 341 – A Committee Substitute for HB 341 was reported favorably by the House Government Operations Subcommittee on March 11th. Under the CS the “structure” of the original bill (see above) is maintained, in that the plan sponsor and collective bargaining unit have an opportunity to reach “mutual consent” as to the use of premium tax revenue and if mutual consent cannot be attained, there is a mandated distribution process. However the following changes were made with the intent of simplifying the default distribution process:

- “Base premium tax revenues” is defined to mean the most current year of premium tax revenue distribution (taxes collected in 2013 and distributed in 2014). The effect of this change would be to reduce from four to two the categories of premium taxes when mutual consent is not met.
- The minimum benefit accrual rate (or multiplier) would remain at 2%.
- There would be two possible categories of premium taxes if mutual consent cannot be reached during collective bargaining. The first category would be “base premium tax revenues” which allows the city to use an amount equal to the amount of premium taxes distributed in 2014, to provide minimum benefit levels or other retirement benefits. The second category would be “additional premium tax revenues” which is the amount in excess of the base premium tax revenues. These premium tax dollars would be split evenly between the plan sponsor (retirement costs) and members (for “defined contribution” benefits). CS/HB 341 eliminates required uses of two other categories presently in SB 172: the 1997-2012 premium tax amount and the accumulated excess premium tax revenues.
- The amendment maintains the grandfather language and other protections that apply when mutual consent is met.
- The amendment also clarifies that only “active” police officers and firefighters may vote on the use of premium tax money if there is no union.

The overall concept of the bill, (if mutual consent cannot be attained, premium tax revenues will be subject to a statutory default use process) is preserved in CS/HB 341; however, the default process would be simplified. HB 341 was reported favorably as a committee substitute by the House Government Operations Subcommittee, and is now in the House State Affairs Committee.

Police and Firefighter Pension Plans – HB 1279 (By Rep. Adkins)

This bill would substantially revise requirements for the use of premium tax revenues under Chapters 175 and 185, Florida Statutes. Currently, the use of premium tax revenues must be approved by a majority of plan members, and must be used for either “extra benefits” or a “share plan” component of the defined benefit plan. HB 1279 would permit the plan sponsor to use premium tax revenues to provide benefits under either a defined benefit plan or a defined contribution plan. The bill would also remove the requirement of member approval for the use of

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premium tax revenues. The use of premium tax revenues, however, would be subject to the collective bargaining process, if applicable.

This bill would also revise the membership requirements for boards of trustees under Chapters 175 and 185, Florida Statutes. Currently, the law requires the election by plan members of two police officer plan members (or firefighters), two residents appointed by the plan sponsor and one member selected by the other four members. HB 1279 would require two police officer plan members (or firefighters), elected by the membership, and three residents appointed by the plan sponsor. No member could serve for more than eight consecutive years. If the Plan is a combined police/firefighter plan, five members would be appointed by the plan sponsor, two would be police officer members and two would be firefighter members.

The Board of Trustees would be required annually to provide a detailed expense report to the plan sponsor and to the Department of Management Services, which would include all administrative expenses relating to legal counsel, actuary, plan administrator, and all other consultants and all travel and other expenses. The Board would be required to operate under an expense budget and provide a copy of the budget to the plan sponsor and plan members before the beginning of the fiscal year. The budget would not be effective until approved by the plan sponsor. The bill would require the boards to establish qualifications for a plan administrator, which would include, at a minimum, a bachelor's degree with a major in finance or licensure as a certified public accountant, and at least three years of professional experience managing retirement plans. The plan administrator would then have to be approved by a majority plus one vote of the plan sponsor.

The bill would require deferred retirement option plans (DROP) to limit the interest rate on accruals to no more than the FRS DROP accrual interest rate (currently 1.3 percent, compounded monthly). Cost of living adjustments (COLAs) could not exceed the lesser of the annual rate established by the Consumer Protection Index (CPI), or 4%. 13th check provisions or other conditional supplemental payments based upon the investment earnings of the plan, would not be permitted if the plan had an unfunded actuarial accrued liability.

A city having its own pension plan that has an assets-to-liabilities ratio of 55 percent or less would be required to request the Office of the Auditor General to conduct, at the plan's expense, an audit of the plan's management and accounting practices and investments and make recommendations. The Office of the Auditor General shall provide a copy of its findings to the President of the Senate, the Speaker of the House of Representatives, and the governing body of the city. If the assets-to-liabilities ratio was 75 percent or less, the plan must conduct an internal audit of the plan's management and accounting practices and investments every three years. The results of the audit must be provided to the City and the Department of Management Services.

The bill would also require actuarial reports to include mortality tables that use a methodology consistent with the most recently published actuarial valuation report of the Florida Retirement System. HB 1279 currently has no Senate companion (however, see SB 1160 above). It was reported favorably by the Government Operations Subcommittee. It is on the March 31 Finance & Tax Committee agenda and has been referred to the State Affairs Committee.

Local Pension Plan Mortality Tables – SB 242 (by Sen. Brandes) / CS/HB 1309 (by Rep. Drake)

This bill would require all local pension plans to use mortality tables consistent with those in the most recent FRS valuation report. SB 242 was reported favorably by Government Oversight and Accountability and Community Affairs Committee and is in Appropriations. CS/HB 1309 was reported favorably by the Government Operations Subcommittee. It is on the March 31 Appropriations Committee agenda and has been referred to the State Affairs Committee.

FRS Reemployment After Retirement – HB 333 (by Rep. Lee) / SB 696 (by Sen. de la Portilla)

This bill would delete current provisions of the FRS statute that require retired members to have at least a six month break in service following retirement before being employed by another FRS employer. HB 333 has been referred to the House Government Operations Subcommittee, the Appropriations Committee and the State Affairs Committee. SB 699 has been referred to Senate Committees on Government Oversight and Accountability and Appropriations.

FRS Employer Contribution Rates – HB 5005 / SB 7038

These bills contain the FRS employer contribution rates for the year beginning July 1, 2015. The contribution rates are intended to fund the full normal cost as well as the full amortization payment for unfunded actuarial liabilities, as reflected in the June 30, 2014 actuarial valuation. The bills reflect the following employer contribution rates:

FRS Membership Class	Effective July 1, 2014			Effective July 1, 2015		
	Normal Cost	UAL Rate	Total	Normal Cost	UAL Rate	Total
Regular Class	3.53%	2.54%	6.07%	2.91%	2.65%	5.56%
Special Risk Class	11.01%	7.51%	18.52%	11.35%	8.99%	20.34%
Special Risk Administrative Support Class	4.18%	36.59%	40.77%	3.71%	27.54%	31.25%
Elected Officer's Class						
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	6.30%	38.66%	44.96%	6.48%	37.62%	44.10%
• Justices and Judges	10.10%	21.77%	31.87%	11.39%	22.62%	34.01%
• Local Officers	8.36%	33.58%	41.94%	8.48%	32.09%	40.57%
Senior Management Service Class	4.80%	15.04%	19.84%	4.32%	15.41%	19.73%
Deferred Retirement Option Program	4.30%	6.72%	11.02%	4.10%	7.12%	11.22%

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Note: the above employer contribution rates do not reflect the FRS health insurance subsidy contribution, which is slated to increase from 1.26% to 1.58% under the Senate Bill, and to 1.66% under the House Bill – both effective July 1, 2014; or the .04% employer assessment for administrative and educational expenses, which is not slated to increase this year. Also, the above employer contribution rates do not reflect the 3% member contribution.

HB 5005 has been placed on the April 1 House Special Order Calendar. SB 7038 has been reported favorably by the Government Oversight & Accountability and Appropriations Committees and has been placed on the April 1 Senate Special Order Calendar.